



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Seventeenth day of June Two Thousand and Twenty Two

RESERVED ON : 13.06.2022

PRONOUNCED ON : 17.06.2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

Crl M.P.(MD)No.5927 of 2022
in
Crl.A.(MD) No.15 of 2022

RANGARAJ

... PETITIONER/PETITIONER
/PETITIONER/APPELLANT

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
SIVAGANGAI.
CRIME NO.16/2015.

... RESPONDENT/RESPONDENT
/RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed on the petitioner/accused in Spl.SC No.5 of 2016 on the file of the Court of the Special Court for exclusive Trial of Cases under POCSO Act,2012,Sivagangai, dated on 21/10/2021 and enlarge him on the bail till the disposal of the Appeal pending on the file of this Hon'ble Court and also grant Bail to petitioner/appellant on any condition.

PRAYER IN CRL A(MD)No.15 OF 2022:

Pleased to call for the records relating to the judgment passed in special S.C.No. 5/2016 on the file of Court of the Special Court for exclusive Trial of cases under POCSO Act, 2012, Sivagangai dated on 21.10.2021 and set-aside the same and acquit the Appellant/Accused from the charges leveled against him.



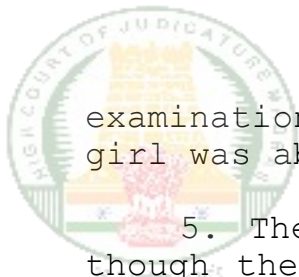
Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.G.GOPALAKRISHNA LAKSHMANA RAJA, Senior Counsel for MR.P.AJU TAGORE, Advocate for the petitioner and of MR.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

The above petition has been filed seeking orders to suspend the sentence imposed on the petitioner/accused in Special S.C.No.5 of 2016, on the file of the Special Court for exclusive trial of cases under the POCSO Act, Sivagangai, dated 21.10.2021 and enlarge him on bail till the disposal of the appeal.

2. The case of the prosecution is that four days prior to 19.08.2015, while the victim girl was studying in 2nd std., at Panchayat Union School, the accused who was a teacher of the said School and during lunch interval, he took her to the bathroom and lifted her skirt and removed her inner wear and committed sexual assault on her. Based on the statement recorded from the mother of the victim, F.I.R. came to be registered in Cr.No.16 of 2015 under Section 5(f), (1), (m) r/w 6 of POCSO Act. The respondent after completing the investigation, has laid the final report. After framing of necessary charges, the trial was proceeded. The prosecution has examined 14 witnesses as P.W.1 to P.W.14 and exhibited 19 documents as Ex.P.1 to Ex.P.19. The accused has not adduced any oral evidence, but exhibited 8 documents as Ex.D.1 to Ex.D.8.

3. The learned Special Judge, on considering the evidence adduced and on hearing the arguments of both sides, has passed the impugned judgment on 21.10.2021 convicting the accused for the offence under Section 5(f), (1), (m) r/w 6 of POCSO Act and sentenced him to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.10,000/- in default to undergo Simple Imprisonment for six months. Challenging the impugned judgment of conviction, the accused has preferred the above appeal along with the above application for suspension of sentence. No doubt, the petitioner's earlier two applications for suspension of sentence were dismissed by this Court, vide order dated 31.01.2022 and 09.03.2022.

4. The learned Counsel for the petitioner would submit that the trial Court failed to consider that the victim girl never told the name of the teacher who committed sexual assault except referring as 1std sir and as such, the mentioning of the petitioner's name in the F.I.R., by P.W.1 is highly doubtful and that the specific date of occurrence was not mentioned in the complaint, which was fatal to the prosecution, but the same was not considered by the trial Court. The learned Counsel would further submit that P.W.1 in her evidence administered by the Doctor told her that one day prior to the medical



examination, the victim was sexually assaulted, whereas the victim girl was absent and not turned up to the School on that day.

5. The learned Additional Public Prosecutor would submit that though the defence had taken a stand that the accused had gone to Chennai on 11.08.2015 and 12.08.2015, they have not produced any evidence or material to substantiate the same.

6. The learned Counsel for the petitioner would submit that P.W.1, in his evidence, had specifically admitted that she consumed poison and also administered poison to the victim girl. But according to the learned Additional Public Prosecutor, there existed disputes between P.W.1 and her husband and they were living separately. The learned Additional Public Prosecutor would submit that though the defence had taken a stand that since the accused had helped the father of the victim girl in taking the victim girl, P.W.1 has falsely lodged the above complaint falsely implicating the petitioner, admittedly, the defence has not produced any iota of evidence to substantiate the said stand.

7. The learned Counsel for the petitioner would submit that the medical evidence supports the case of the accused, but as rightly pointed out by the learned Additional Public Prosecutor, the medical officer who examined the victim girl has given her finding as "Hymen not intact, Hymen area congestion present".

8. It is pertinent to note that the above case against the petitioner is that he has committed sexual assault against the victim girl, who was aged about 6 years at the time of alleged offence. Considering the above facts and circumstances and also the seriousness and gravity of the offence alleged and also the fact that the impugned judgment of conviction was passed on 21.10.2021, this Court is not inclined to suspend the sentence awarded to the petitioner, at this point of time.

9. In the result, the Criminal Miscellaneous Petition is dismissed.

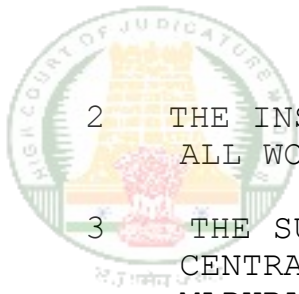
sd/-
17/06/2022

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23/06/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, 2012, SIVAGANGAI.



2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, SIVAGANGAI.

3 THE SUPERINTENDENT
CENTRAL PRISON,
MADURAI.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CrI M.P. (MD) No.5927 of 2022
in
CrI.A. (MD) No.15 of 2022
Date :17/06/2022

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PKP/JM/SAR-4/23.06.2022/4P/5C