



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Fourth day of July Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL.M.P. (MD) No.6966 of 2022
in
CRL.A. (MD) No.499 of 2021

ANANTHARAMALINGA KUMAR

... APPELLANT/ ACCUSED NO.2

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
RAJAPALAYAM,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.8 OF 2020)

... RESPONDENT/ COMPLAINANT

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 of imprisonment imposed on the petitioner in the judgment dated 11.11.2021 made Spl.S.C.No.52/2020 on the file of the Special Court for Exclusive Trial of cases under protection of children from Sexual Offences Act 2012, Virudhunagar District at Srivilliputhur and enlarge the petitioner on bail pending disposal of the above criminal appeal before this Hon`ble Court.

Prayer in CRL A(MD) . 499/ 2021 :

To call for the records pertaining to Special Sessions Case No.52/2020, on the file of the Learned Sessions Judge, The Special Court for Exclusive Trial of Cases under Protection of Children from Sexual Offences Act, 2012, Virudhunagar District at Srivilliputtur, dated 11.11.2021, by allowing this Criminal Appeal and to acquit the Appellant/Accused No.2.

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.P.SAMUEL GUNASINGH, Advocate for the petitioner and of MR.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed by the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Srivilliputhur, in Spl.S.C.No.52 of 2020, dated 11.11.2021, till the disposal of the appeal.



2.The case of the prosecution is that on 02.06.2020, when the victim girl was studying seventh standard in Government Higher Secondary School, Chathrapatti village, due to covid 19, she along with one Jeyalakshmi has managed to go to work in Ramasubbu bandage company. A5 is a neighbor of victim. A2 used to visit the house of A5 who is his relative. A2 developed friendship with the victim girl from the month of November 2019. During the second week of April, A2 called the victim child and told her that he fell in love with her and A2 committed sexual assault.

3.On the basis of the complaint lodged by the victim's mother, FIR came to be registered in Crime No.8 of 2020, for the offence under Sections 5(1), 6, 7, 8 of POCSO Act and Sections 328, 506(ii) IPC. After completing the investigation, the respondent Police has laid the final report and the case was taken on file in Spl.S.C.No.52 of 2020.

4.During trial, 13 witnesses have been examined as P.W.1 to P.W.13 and 14 documents were exhibited as Ex.P.1 to Ex.P.14. The defence had examined two witnesses as D.W.1 and D.W.2.

5.The learned Sessions Judge, upon considering the evidence adduced and on hearing the arguments of both the sides, has passed the impugned judgment, dated 11.11.2021, and convicted the petitioner/A2 and sentenced him to undergo five years imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) in default to undergo six months imprisonment for the offence under Section 8 r/w 7 of POCSO Act. Aggrieved by the said conviction and sentence imposed by the trial Court, the petitioner/A2 has preferred the above appeal.

6.It is evident from the records that the petitioner's earlier two applications for suspension of sentence were dismissed by this Court in Crl.M.P.(MD)No.543 of 2022 and Crl.M.P.(MD)No.3751 of 2022 in Crl.A(MD)No.499 of 2021, vide orders, dated 19.01.2022 and 22.03.2022. The petitioner/appellant has now come forward with the third application for suspension of sentence.

7.The learned counsel appearing for the petitioner submitted that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

8.The learned counsel appearing for the respondent submitted that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

9.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on



10.The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of suspension of sentence.

11.Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:-

(i) the petitioner is directed to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the Special Court for Exclusively Trial of Cases under Protection of Children from Sexual Offences Act, 2012, Virudhunagar District at Srivilliputhur ;

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iii) The petitioner shall appear before the trial Court on all working days at 10.30 am, until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-

04/07/2022

/ TRUE COPY /

/07/2022

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

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



TO

1 THE JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER PROTECTION
OF CHILDREN FROM SEXUAL OFFENCES ACT 2012,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR.

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
RAJAPALAYAM,
VIRUDHUNAGAR DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1. C.C. to M/S.SAMUEL GUNASINGH P Advocate SR.No.6516.

ORDER
IN
CRL.M.P. (MD) No.6966 of 2022
in
CRL.A. (MD) No.499 of 2021
Date :04/07/2022

das
MK/VR/SAR.IV/06.07.2022/4P/6C