



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

Monday, the Fifth day of September Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.10389 of 2022

IN

CRL A(MD) No.535 of 2022

DURAIPANDI

... APPELLANT/1st ACCUSED

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
RADHAPURAM POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO. 18 OF 2019).

... 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 imposed by the Hon`ble Sessions Judge, POCSO Special Court, Tirunelveli in S.C.No. 281 of 2019 Dated. 17.08.2022 pending disposal of the above the Criminal Appeal.

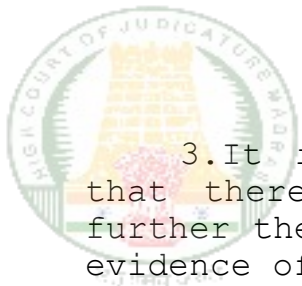
PRAYER IN CRL A(MD) No.535 of 2022 :

Pleased to call for the records in S.C.No.281 of 2019 relating to the judgment dated 17.08.2022 passed by the Learned Sessions Judge, POCSO Special Court, Tirunelveli and to set aside the judgment of the conviction on the appellant/accused.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.SUSIKUMAR.C, Advocate for the petitioner and of MR.SS.MADHAVAN, Government Advocate (Criminal) on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Sessions Judge, POCSO Special Court, Tirunelveli, dated 17.08.2022 in S.C.No.281 of 2019.

2.The learned counsel for the petitioner submitted that the petitioner has been convicted by the learned trial judge, for the alleged offence under Section 366 IPC and sentenced him to undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.10,000/- in default to undergo rigorous imprisonment for a period of 6 months, in S.C.No.281 of 2019 on the file of the learned learned Sessions Judge, POCSO Special Court, Tirunelveli.



3.It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

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4.It is submitted by the learned Government Advocate (Crl.Side) that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and he strongly opposed to grant suspension of sentence.

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

6.The learned counsel 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 grant of suspension of sentence.

7.Accordingly, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned learned Sessions Judge, POCSO Special Court, Tirunelveli, and on further condition that the petitioner shall appear before the said Court once in a month at 10.30 a.m. pending appeal.

sd/-

05/09/2022

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

Note: 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 SESSIONS JUDGE,
POCSO SPECIAL COURT, TIRUNELVELI.
2. THE INSPECTOR OF POLICE,
RADHAPURAM POLICE STATION,
TIRUNELVELI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.10389 of 2022
IN
CRL A (MD) No.535 of 2022
Date :05/09/2022

dss
USK/VR/SAR-I/07.09.2022/3P/4C