



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

Tuesday, the Eleventh day of October Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice A.A.NAKKIRAN

CRL MP(MD) No.11986 of 2022

IN

CRL A(MD) No.617 of 2022

SERMAKANI

... PETITIONER/APPELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
SAMBAVARVADAGARAI POLICE STATION,
TENKASI DISTRICT.
CRIME NO.162/2016.

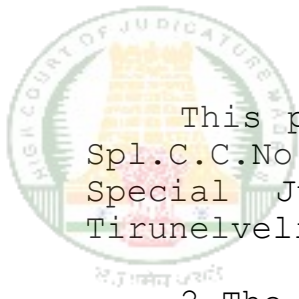
... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the execution of the Substantive Sentence of 3 years Rigorous Imprisonment and to pay a fine of Rs.10,000/- and in default to undergo 6 months Rigorous Imprisonment for the offence U/s.363 of IPC and to undergo 6 months Rigorous Imprisonment for the offence U/s.506(i) of IPC passed against the petitioner/appellant in Spl CC No.79 of 2019 dated 21.09.2022 on the file of the Learned Special Judge for Trial of offences under POCSO Act Cases, Tirunelveli on enlarge the petitioner on bail, pending disposal of the main criminal appeal.

Prayer in CRL A(MD).617 of 2022 :

To set aside the conviction and sentence dated 21.09.2022 passed by the Learned Special Judge for Trial of offences under POCSO Act Cases, Tirunelveli, in Spl.C.C.No.79 of 2019 for the charge under Sections 363 & 506(i) of IPC to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.10,000/- and in default to undergo 6 months Rigorous Imprisonment for the offences U/s.363 of IPC and to undergo six months Rigorous Imprisonment for the offence u/s 506(i) of IPC with a direction to suffer concurrently and allow this Criminal Appeal, acquit the Appellant.

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.SASIKUMAR V, Advocate for the petitioner and of MR.S.MANIKANDAN, Government Advocate (Crl.Side) on behalf of the Respondent, while admitting the Crl.A., the court made the following



This petition has been filed to suspend the sentence in Spl.C.C.No.79 of 2019, dated 21.09.2022 on the file of the learned Special Judge for Trial of Offences under POCSO Act Cases, Tirunelveli, till the disposal of this Criminal Appeal.

2.The learned counsel appearing for the petitioner submitted that the Special Court convicted the petitioner/accused in Spl.C.C.No.79 of 2019, dated 21.09.2022, on the file of the learned Special Judge for Trial of Offences under POCSO Act Cases, Tirunelveli, for the offence under Section 363 IPC, sentenced him to undergo three years Rigorous Imprisonment and to pay a fine of Rs.10,000/- in default to undergo six months Rigorous Imprisonment and for the offence under Section 506(i) IPC, sentenced him to undergo six months rigorous imprisonment. The above sentences shall run concurrently. The Special Court has passed an order in Cr.MP.No.2827 of 2022, dated 21.09.2022 suspending the sentence imposed on the petitioner till 19.10.2022. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

3.The learned counsel appearing for the petitioner further 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.

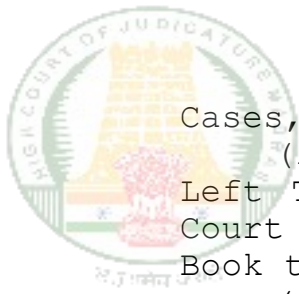
4.The learned Government Advocate (Crl. side) appearing for the respondent submitted that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

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 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 grant of suspension of sentence.

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

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Special Judge for Trial of Offences under POCSO Act



Cases, Tirunelveli.

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Special Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
11/10/2022

/ TRUE COPY /

13/10/2022

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

TO

- 1 THE SPECIAL JUDGE FOR TRIAL OF OFFENCES UNDER POCSO ACT CASES,
TIRUNELVELI DISTRICT.
 - 2 THE INSPECTOR OF POLICE, SAMBAVARVADAGARAI POLICE STATION,
TENKASI DISTRICT.
 - 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.V.SASIKUMAR, Advocate (SR-11214[I] dated 12/10/2022)

ORDER
IN
CRL MP(MD) No.11986 of 2022
IN
CRL A(MD) No.617 of 2022
Date :11/10/2022

sjj
RS/SBN/SAR. (13.10.2022) 3P-5C