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Crl.M.P.No.392 of 2023 in Crl.A.36 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 11.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.392 of 2023 in
Crl.A.No.36 of 2023

1. Yogeswaran

2. Krishnaveni

... Petitioners

Vs.

The State represented by
The Inspector of Police,
E3, Saravanampatty Police Station
In Crime No. 652/2016
Coimbatore District

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence imposed in Judgment and conviction made in S.C.No.93 of 2018 dated 22.12.2022 on the file of the Sessions Court, Mahila Court/Additional Special Court for Exclusive Trial of cases under POCSO Act, Coimbatore and release the petitioners on bail pending criminal appeal

For Petitioners : Mr.S. Bharanidharan

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)



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Crl,M.P.No.392 of 2023 in Crl.A.36 of 2023

ORDER

This petition has been filed to suspend the conviction and sentence imposed on the petitioners in S.C.No.93 of 2018 dated 22.12.2022 on the file of the Sessions Court, Mahila Court/Additional Special Court for Exclusive Trial of cases under POCSO Act, Coimbatore and release the petitioners on bail pending criminal appeal.

2. The petitioners Yogeswaran (A1) and one Krishnaveni(A2) are the accused persons in S.C.No.93/2018 on the file of the Sessions Court, Mahila Court/ Additional Special Court for Exclusive Trial of cases under POCSO Act, Coimbatore. The Trial Court, by judgment dated 22.12.2022 convicted and sentenced the accused persons, as extracted hereunder.

Conviction and sentence imposed on A1

Conviction under Section	Sentence
Section 498 (A) of I.P.C	Two years imprisonment and Rs.1,000/- is imposed as fine in default of which he shall undergo one month simple imprisonment.
Section 306 of IPC	Seven Year Imprisonment and Rs.500 is imposed as fine and in default of which he shall undergo three months simple imprisonment.



Crl.M.P.No.392 of 2023 in Crl.A.36 of 2023

Conviction under Section	Sentence

The above sentences were ordered to run concurrently.

Conviction and sentence imposed on A2

Conviction under Section	Sentence
Section 498(A) of I.P.C	One Year Imprisonment and Rs.1,000/- is imposed as fine in default of which she shall undergo two months simple imprisonment.

3. Challenging the conviction and sentence slapped by the Trial Court the petitioners are before this Court.

4. The learned counsel for the petitioners submitted that there are arguable points in this Criminal Appeal. **He further submitted that A1 is now confined at Central prison, Coimbatore and with regard to A2 his sentence is suspended by Trial Court.** He further submitted that already the petitioners have paid the fine amount of Rs.2,500/- and now A1 in custody and hence, prayed for suspension of sentence.

5. Heard the learned Government Advocate(Crl. side) appearing for the respondent and perused the impugned judgment and the materials on



Crl,M.P.No.392 of 2023 in Crl.A.36 of 2023

record.

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6. Taking into consideration the above submission of the learned counsel appearing on both sides, this Court finds that the petitioners have substantial grounds in this Criminal Appeal, which require detailed appraisal. Therefore, this Court is of the view that the petitioners are entitled to the relief of suspension of sentence.

7. As A1 is now confined at Central prison, the condition with regard to A1 are as follows.

(i) The substantive sentence of imprisonment alone is suspended and the petitioner/A1 is directed to be enlarged on bail on condition that the petitioner/A1 *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 Judicial Magistrate No.II, Coimbatore.*

(ii) The petitioner/A1 and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iii) The petitioner/A1 shall appear before the Trial Court, as and when required.

7.1.As regards A2 sentence is already suspended by Trial Court,



Crl,M.P.No.392 of 2023 in Crl.A.36 of 2023

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Hence, the condition with regard to A2 are as follows.

i) The substantive sentence of imprisonment alone is suspended and the petitioner/A2 shall surrender before the Trial Court within two weeks from the date of receipt of a copy of this order and on such surrender, the petitioner/A2 is ordered to be released on bail on his *executing 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 Judicial Magistrate No.II, Coimbatore*

(ii) The petitioner/A2 and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iii) The petitioner/A2 shall appear before the Trial Court as and when required.

11.01.2023

(1/2)

Index:Yes/No
Internet:Yes/No
smn

To

1.The learned Special Court for Exclusive Trial of cases under POCSO Act, Coimbatore.



Crl,M.P.No.392 of 2023 in Crl.A.36 of 2023

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2.The Superintendent, Central Prison, Coimbatore

3.The Public Prosecutor, High Court, Madras.



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Crl,M.P.No.392 of 2023 in Crl.A.36 of 2023

V.SIVAGNANAM, J.

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Crl.M.P.No.392of 2023
in Crl.A.No.36 of 2023

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(1/2)