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CRL MP(MD)



23

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

Tuesday, the Seventh day of February Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice G.ILANGOVAN

CRL MP(MD) No.1981 of 2023

IN

CRL A(MD) No.94 of 2023

SENTHIL MURUGAN

... PETITIONER/APPELLANT

vs

1 THE DEPUTY SUPERINTENDENT OF POLICE,
OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE,
SIVAGANGAI, SIVAGANGAI DISTRICT.

2 THE INSPECTOR OF POLICE
SIVAGANGAI TALUK POLICE STATION,
SIVAGANGAI DISTRICT.
(CRIME NO.54/2017).

3 VASANTHA

... RESPONDENTS/RESPONDENTS

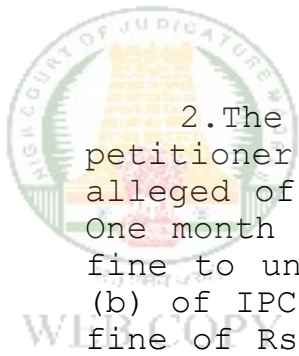
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed on the petitioner by the Principal Special Court for Exclusive Trial of Cases under the POCSO Act, 2012, Sivagangai in Spl.SC.No.71/2018 dt.30/11/2022 and enlarge him on bail pending disposal of the Criminal Appeal.

Prayer in CRL A(MD).94/2023 :

To call for the records and set aside the judgment dated 30.11.2022 made in Spl.S.C.No.71 of 2018 on the file of the Principal Special Court for Exclusive Trial of Cases under the POCSO Act, 2012, Sivagangai.

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.HAROON RASHEED D S, Advocate for the petitioner and of MR.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent Nos.1 & 2 and MR.R.GOWRI SANKAR, Legal Aid Counsel on behalf of the 3rd Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Principal Special Court for Exclusive Trial of Cases under the POCSO Act, 2012, Sivagangai in Spl.S.C.No.71 of 2018 dated 30.11.2022 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.



2.The learned counsel for the petitioner submitted the petitioner has been convicted by the learned trial judge, for the alleged offence under Section 431 of IPC to undergo imprisonment of One month and to pay fine of Rs.500/- and in default in payment of fine to undergo one week of simple imprisonment, under Section 294 (b) of IPC and to undergo imprisonment of three months and to pay a fine of Rs.1000/- and in default to undergo simple imprisonment for two weeks, under Section 506(i) of IPC and to undergo rigorous imprisonment of two years and to pay a fine of Rs.500/- and in default to undergo for three months, under Section 12r/w sections 11 (i), 11(iv) of POCSO Act, 2012 to undergo rigorous imprisonment of three years and to pay a fine of Rs.5,000/- and in default to undergo simple imprisonment for three months and under Section 3(1) (w)(ii) of SC/ST (POA) Act, 1989 to undergo rigorous imprisonment of three years and to pay a fine of Rs.5,000/- and in default to undergo simple imprisonment for three months. The sentences were ordered to run concurrently. Set off under Section 428 Cr.P.C. is also ordered.

3.The learned counsel for the petitioner submitted that the victim girl married some other boy and she got a child also.

4.On the earlier occasion, the victim girl is present along with her mother and the legal aid counsel also appointed on behalf of her to defend the case. The defacto complainant and victim are not willing to prosecute the case further. The joint compromise memo has also been filed. This cannot be taken into account, since the offences are not compoundable.

5.Considering the above facts and circumstances and also the considering the incarceration, this Court is inclined to suspend the sentence imposed on the petitioner.

6.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 Principal Special Court for Exclusive Trial of Cases under the POCSO Act, 2012, Sivagangai, and on further condition that the petitioner shall appear before the said Court once in a week at 10.30 a.m. pending appeal.

sd/-

07/02/2023

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07/02/2023

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



TO

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

2 THE DEPUTY SUPERINTENDENT OF POLICE,
OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE, SIVAGANGAI,
SIVAGANGAI DISTRICT.

3 THE INSPECTOR OF POLICE, SIVAGANGAI TALUK POLICE STATION,
SIVAGANGAI DISTRICT.

4 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

+1. C.C. to M/S.HAROON RASHEED D S Advocate SR.No.6683[F]

ORDER

IN

CRL MP(MD) No.1981 of 2023

IN

CRL A(MD) No.94 of 2023

Date :07/02/2023

RS/SSS/SAR.(07.02.2023) 3P-7C