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Crl.M.P(MD)



23

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

Friday, the Seventeenth day of March Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR
Crl.M.P(MD)No.4427 of 2023
in
Crl.A.(MD)No.205 of 2023

PONNAN

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
VEDASANDUR POLICE STATION,
DINDIGUL DISTRICT.
(CRIME NO.1593/2020).

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an order of suspend the sentence, to suspend the sentence, imposed on the petitioner vide Judgement dt/25/1/2023 made in Spl.SC.No.89/2020 on the file of the Learned Fast Track Mahila Court, Dindigul, pending disposal of the above Crl A.

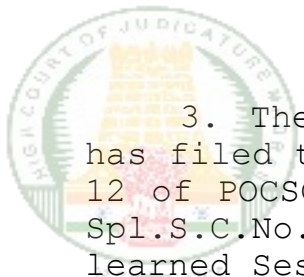
PRAYER IN Crl.A.(MD)No.205 of 2023:

To call for records pertaining to the order dated 25.01.2023 in Spl.S.C.No.89 of 2020 on the file of the learned Fast Track Mahila Court, Dindigul and to set aside the same by allowing this criminal appeal.

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.MARI CHELLIAH PRABHU C M, Advocate for the petitioner and of M/S.SS.MADHAVAN, Government Advocate(Crl.side) on behalf of the Respondent,while admitting the Criminal Appeal, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Fast Track Mahila Court, Dindigul, in Spl.S.C.No.89 of 2020, dated 25.01.2023, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that on 18.09.2020 at about 11.00 a.m., while the minor victim girl was playing in front of her house, the petitioner/sole accused enticed her in the guise of showing dog and took her to his house, wherein, he showed his private part by holding his hands and the said occurrence was immediately informed by the victim girl to her parents and on that basis, FIR came to be registered in Crime No.1593 of 2020 for the offences under Sections 9(m), 11(1) and 12 of POCSO Act, 2012 and subsequently, the case was altered into Sections 11(1) r/w 12 of



3. The respondent police, after completing the investigation, has filed the final report for the offences under Sections 11(1) and 12 of POCSO Act and after committal, the case was taken on file in Spl.S.C.No.89 of 2020 and the same was pending on the file of the learned Sessions Judge, Fast Track Mahila Court, Dindigul.

4. During trial, the prosecution has examined 18 witnesses as P.W.1 to P.W.18 and exhibited 19 documents as Ex.P.1 to Ex.P.19. The defence has adduced neither oral nor documentary evidence.

5. The learned Sessions Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 25.01.2023 finding the petitioner guilty for the offence under Section 12 of POCSO Act and sentenced him to undergo three years Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo two months Simple Imprisonment. The Trial Court has suspended the sentence imposed on the petitioner for a period of 60 days from 25.01.2023. Challenging the above said conviction and sentence, the accused has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

6. The learned counsel appearing for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner has already paid fine amount.

7. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

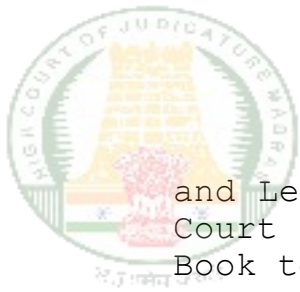
8. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

9. 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.

10. 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) with two sureties each for a like sum to the satisfaction of

<https://www.mhc.in/> in Fast Track Mahila Court, Dindigul;



(ii) 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; and

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(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 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/-

17/03/2023

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

csm

TO

1.THE JUDGE, FAST TRACK MAHILA COURT, DINDIGUL.

2.THE INSPECTOR OF POLICE
VEDASANDUR POLICE STATION,
DINDIGUL DISTRICT.

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

+1 CC to M/s.MARI CHELLIAH PRABHU C M, Advocate (SR-4510[I]
dated 17/03/2023)

ORDER

IN

Crl.M.P (MD) No.4427 of 2023
in

Crl.A. (MD) No.205 of 2023

Date :17/03/2023

RK/SBN/SAR-2 (27/03/2023) 3P/5C