



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

Monday, the Tenth day of April Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.5601 of 2023
IN
CRL A(MD) No.282 of 2023

MANICKAM

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
SANARPATTI POLICE STATION,
DINDIGUL DISTRICT.

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioner on bail by suspending the sentence imposed on him by the Mahila Fast Track Court Dindigul in Spl.S.C.No.1/2018 dt 07.12.2022 pending disposal of the above criminal appeal and thus render justice.

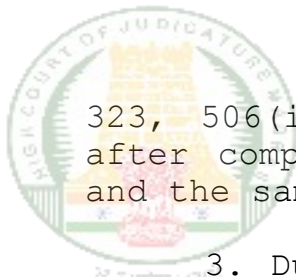
PRAYER IN CRL A(MD) No.282 of 2023:

To set aside the judgment made in Spl.S.C.No.1 of 2018 by the Mahila Fast Track Court, Dindigul dated 07.12.2022

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.VENKATESH.D, Advocate for the petitioner and of M/S.A.ALBERT JAMES, Government Advocate(Crl.side) on behalf of the Respondent, while admitting the CRL .A, the court made the following order:-

This petition has been filed to suspend the sentence passed in Spl.S.C.No.1 of 2018, dated 07.12.2022, on the file of the Mahila Fast Track Court, Dindigul, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that on 30.08.2017 at about 06.00 pm, when the victim girl was alone in her house, the petitioner has trespassed into the house and sexually assaulted her; that when the same was questioned by the victim's side, the petitioner and other accused persons abused them with filthy language and also threatened them with dire consequences, based on the complaint of the defacto complainant, FIR came to be registered in Crime No.361 of 2017 for the offence under Sections 147, 294(b),



323, 506(i) IPC and Section 3(1)(r)(s) SC/ST (POA) Act at after completing the investigation, final report came to be filed and the same was taken on file in Spl.S.C.No.1 of 2018.

3. During trial, the prosecution has examined 21 witnesses as P.W.1 to P.W.21; exhibited 12 documents as Ex.P.1 to Ex.P.12. The accused has adduced neither oral nor any documentary evidence.

4. The learned Judge, upon considering the evidence adduced and on hearing the arguments of both the sides, has passed the judgment dated 07.12.2022, convicting the petitioner/accused under Section 18 of POCSO Act and sentenced him to undergo 18 months rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, rigorous imprisonment for a period of two months and acquitted the accused for the offence under Section 3(i)(r)(s) SC/ST (POA) Act and 147, 294(b), 323, 506(i) IPC. Aggrieved by the conviction judgment, the accused has preferred the present appeal.

5. The learned counsel 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.

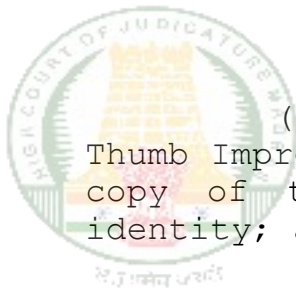
6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

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

8. 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.

9. 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 the learned Mahila Fast Track Court, Dindigul;



(ii) The sureties shall affix their photographs at 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

(iii) The petitioner shall appear before the concerned Court on all working days at 10.30 a.m., until further orders 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/-

10/04/2023

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10/04/2023

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

DAS

TO

1. THE JUDGE,
MAHILA FAST TRACK COURT, DINDIGUL.
2. THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.
3. THE INSPECTOR OF POLICE
SANARPATTI POLICE STATION,
DINDIGUL DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.VENKATESH.D, Advocate (SR-5591[I] dated 10/04/2023)

ORDER

IN

CRL MP(MD) No.5601 of 2023

IN

CRL A(MD) No.282 of 2023

Date :10/04/2023

RK/VR/SAR-(10/04/2023) 4P/6C