



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

Thursday, the Eighteenth day of May Two Thousand and Twenty Three

PRESENT

The Hon`ble Mrs.Justice T.V.THAMILSELVI

Crl.M.P(MD)No.7449 of 2023
in
Crl.A.(MD)No.346 of 2023

MADHULAKSHMI @ LAKSHMI

... PETITIONER/APPELLANT/2ND ACCUSED

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
AMMAPETTAI POLICE STATION,
THANJAVUR DISTRICT.
CRIME NO.216 OF 2019)

... RESPONDENT/RESPONDENT/COMPLAINANT

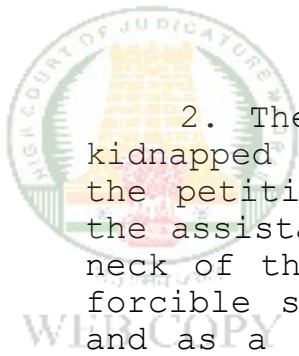
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioner on bail by suspending the sentence imposed upon the petitioner in Spl.S.C.No. 21 of 2020 on the file of the learned Sessions Judge/Special Court for Exclusive Trial of cases under POCSO Act,Thanjavur by judgement.

PRAYER IN Crl.A.(MD)No.346 of 2023:-

To call for the records in Special Sessions Case No.21 of 20220 on the file of the Learned Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur, Thanjavur District and set aside the judgement dated 18.02.2023 and acquit the appellant of the charges leveled against her.

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.ILAYARAJA.R, Advocate for the petitioner and of M/S.M.SAKTHI KUMAR, Government Advocate (Crl.Side) on behalf of the Respondent 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, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur, in Spl.S.C.No.21 of 2020, dated 18.02.2023, and to grant disposal of this Criminal Appeal.



2. The case of the prosecution is that the first accused had kidnapped the victim girl, who is aged 14 years, with the help of the petitioner/second accused to his house in Dharmapuri and with the assistance of the accused 3 to 5 had forcibly tied thali on the neck of the victim girl and that thereafter, the first accused had forcible sexual intercourse with the victim girl on several times and as a consequence, the victim girl has become pregnant and on that basis, FIR came to be registered in Crime No.216 of 2019.

3. The respondent police, after completing the investigation, has filed the final report and the case was taken on file in Spl.S.C.No.21 of 2020 and the same was pending on the file of the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur.

4. During trial, the prosecution has examined 17 witnesses as P.W.1 to P.W.17 and exhibited 17 documents as Ex.P.1 to Ex.P.17. The accused have 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 18.02.2023 convicting the petitioner for the offences under Sections 506(1) and 366(A) IPC and sentenced her to undergo 1 year Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 3 months Rigorous Imprisonment for the offence under Section 506(1) IPC and sentenced her to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo 6 months Rigorous Imprisonment for the offence under Section 366(A) IPC and that the above sentences were ordered to be run concurrently. Challenging the above said conviction and sentence, the second accused has preferred the present Criminal Appeal along with the above miscellaneous petition for suspension of sentence.

6. The learned counsel appearing for the petitioner would submit that the petitioner was convicted for the offences under Sections 506(1) and 366(A) IPC, as if, she threatened the victim girl, that the petitioner is the close relative of the victim girl and that the petitioner is not having any previous cases.

7. The learned counsel appearing for the petitioner would further 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.

8. 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



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

10. 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.

11. Accordingly, the relief of suspension of sentence and bail 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 Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur;

(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

(iii) The petitioner shall appear before the concerned Court on all working days at 10.30 a.m., until further orders and if she is not able to appear before the trial Court on any day, she 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 her absence, as directed by the trial Court.

sd/-

18/05/2023

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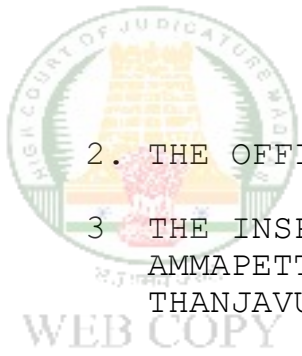
/05/2023

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

CSM

TO

1. THE SESSIONS JUDGE,
PRINCIPAL SPECIAL COURT FOR EXCLUSIVE TRIAL OF
CASES UNDER POCSO ACT, THANJAVUR.



2. THE OFFICER INCHARGE, SPECIAL PRISON FOR WOMEN, TRICHY.
- 3 THE INSPECTOR OF POLICE,
AMMAPETTAI POLICE STATION,
THANJAVUR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.ILAYARAJA R, Advocate (SR-7618[I] dated 19/05/2023)

ORDER
IN
CRL MP (MD) No.7449 of 2023
IN
CRL A (MD) No.346 of 2023
Date :18/05/2023

NA/VR/SAR-3/19.05.2023/4P/6C