



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

Tuesday, the Eleventh day of July Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.K.RAMAKRISHNAN

CRL MP(MD) No.9861 of 2023
in
CRL A(MD) No.515 of 2023

SONAIMUTHU

... APPELLANT/SOLE ACCUSED

Vs

State Rep.by
THE INSPECTOR OF POLICE
SIVAGANGAI TALUK POLICE STATION,
SIVAGANGAI,
SIVAGANGAI DISTRICT.
(IN CRIME NO.217 OF 2016)

... COMPLAINANT/RESPONDENT

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 of Rigorous Imprisonment for three years term imposed by the learned Special Court for the exclusive trial of cases under Pocso Act, 2012, Sivagangai, Sivagangai District in Spl.S.C.No.77 of 2018 by the Judgment dt 12.04.2023 and enlarge the petitioner / appellant on bail, pending disposal of the above said Criminal Appeal.

PRAYER IN CRL A(MD).515/2023 :

To call for the records and set aside the order of conviction and sentence passed in SPL.S.C.No.77 of 2018 dated 12.04.2023 on the file of the Learned Special Court for the Exclusive trial of Cases under POCSO Act, 2012, Sivagangai, Sivagangai District and allow this appeal and Acquit the Appellant / Accused from the charge leveled against the petitioner.

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.R.BALAMURUGANANTHAM, Advocate for the petitioner and of MR.R.SIVAKUMAR, Government Advocate (Crl.Side) on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent.



2.I have perused the petitioner's affidavit filed in support of the above petition, judgment of the trial Court and the memorandum of the appeal.

3.The petitioner has been convicted by the learned Trial Judge for the offence under Sections 11(i), (iii), (iv) r/w. 12 of POCSO Act, 2012 in Spl.S.C.No.77 of 2018 by the Special Court for the Exclusive Trial of Cases under POCSO Act, Sivagangai, Sivagangai District, sentenced to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.5,000/- in default to undergo 3 months Simple Imprisonment.

4.The learned counsel for the appellant submitted that there is a delay in preferring the complaint as well as the offence alleged is not made out on the basis of prosecution witnesses and he has already suffered incarceration for more than one year. He further submitted that petitioner is a disabled person and that there are very many legal infirmities in the conviction recorded by the Trial Court and they are required to be revised. There is *prima facie* case in favour of the appellant.

5.The learned Government Advocate (Crl.side) appearing for the respondent would contend that the Trial Court has rightly convicted the appellant on the basis of the evidence and the appellant has no *prima facie* case in this appeal.

6.Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner that there are several infirmities in the prosecution case and there are arguable points involved in the appeal and that the petitioner has already suffered incarceration of imprisonment for more than one year and that he is a disabled person and that the appeal is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence and accordingly this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal with the following conditions:-

(i) The petitioner shall execute a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties for the likesum each to the satisfaction of the learned the Special Court for Exclusive Trial of Cases under POCSO Act, 2012 Sivagangai, Sivagangai District.

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the concerned officer may obtain a copy of their Aadhar or Bank Pass Book to ensure their identity.



(iii) The petitioner shall appear before the Court concerned on the first working day of every English Calendar month at 10.30 a.m., until further orders.

sd/-

11/07/2023

/ TRUE COPY /

WEB COPY

13/07/2023

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

trp

TO

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

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

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

+1 CC to M/s.R.BALAMURUGANANTHAM, Advocate (SR-10468[I] dated
11/07/2023)

ORDER

IN

CRL MP(MD) No.9861 of 2023

in

CRL A(MD) No.515 of 2023

Date :11/07/2023

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