



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

Wednesday, the Twelfth day of May Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.2570 of 2021

IN

CRL A(MD) No.159 of 2021

MARI ... PETITIONER/APELLANT/SINGLE ACCUSED

(NOW CONFINED IN CENRAL PRSION,
MADURAI)

Vs

STATE REP.BY,
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUMANGALAM,
MADURAI DISTRICT.
CR.NO. 77 OF 2016.

... 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 suspend the sentence imposed in Spl.S.C.No.105/2018 dated.19.11.2020 passed by the learned Sessions Judge, Special Court for Exclusive trial of Cases under POCSO Act, Madurai and enlarge the petitioner on bail pending disposal of main 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 Mr.S.RAVI, Advocate for the petitioner and of Mr.A.ROBINSON, Government Advocate(Crl.Side) on behalf of the Respondent, the Court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Madurai, made in Spl. SC No.105 of 2018, dated 19.11.2020 and to enlarge the petitioner on bail pending disposal of the criminal appeal.

2.The allegation against the petitioner is that on 14.09.2016 at about 8.30 am, when the victim girl went to school, he came behind her and molested the victim girl and when the victim raised



an alarm, the accused ran away. A case in Crime No.77 of 2016 under Section 9(m) r/w 10 of POCSO Act, was registered by the respondent police and the same was taken on file, as Special SC No.105 of 2018 by the Sessions Judge, Special Court for exclusive Trial of cases under POCSO Act, Madurai. The petitioner was found guilty under Section 9(m) r/w 10 of POCSO Act, convicted and sentenced to undergo Rigorous Imprisonment for a period of 5 years and to pay a fine of Rs.3,000/-, in default to undergo Rigorous Imprisonment for 5 years. Against the conviction and sentence, the petitioner filed an appeal in Crl.A(MD)No.159 of 2021. Along with the appeal, this petition has been filed for suspension of sentence.

3.Heard both sides and perused the materials available on record.

4.The learned counsel appearing for the petitioner/accused submitted that there are contradiction of evidence in respect of place of occurrence and the alleged occurrence happened inside the school, neither the school authorities, nor the students, who were present at the time of occurrence, were examined by the prosecution and in order to overcome the difficulties, the place of occurrence was shifted by the prosecution before the trial court and only due to the previous enmity, the complaint was falsely given and prays that the sentence imposed against the petitioner/accused may be suspended.

5.It is an admitted fact that the occurrence is said to have taken place within the premises of the school. PW2/victim categorically stated that on the date of the occurrence, she took the key and opened the gate, at the time, the accused followed her and fondled her breasts and so, she shouted and PW4 Mahalakshmi came and enquired her and she stated the occurrence to her. PW4 also deposed that PW2 took the key from her and opened the gate and then, she went to clean the rooms and then, she saw PW2 was sweeping and when she enquired her, PW2 stated the occurrence to her. Further, PW2, in her 164 Cr.P.C statement also stated the occurrence as stated in her evidence. PW1 to PW6 stated that the place of occurrence is within the school premises. In the rough sketch also, the place of occurrence is shown as 'within the premises of the school'.

6.It is the further contention of the learned counsel appearing for the petitioner/accused that there was a delay in giving the complaint, and hence, it is fatal to the prosecution. PW2 stated during her evidence that due to fear, she has not narrated the occurrence to her parents. Hence, the delay in giving the complaint will not affect the case of the prosecution. It is needless to say that now-a-days, there is no security for school going children. Hence, this type of offence may be carefully scrutinised. Under these circumstances, this court is not inclined to enlarge the



7. Accordingly, this criminal miscellaneous petition is dismissed.

sd/-
12/05/2021

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/ /2021

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

Note:- In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but ensuring that the copy of the order that is presented is the correct copy shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, MADURAI
2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, THIRUMANGALAM,
MADURAI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
4. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

ORDER
IN
CRL MP(MD) No.2570 of 2021
IN
CRL A(MD) No.159 of 2021
Date :12/05/2021

ER
PK/JC/SAR-III/21.05.2021 : 3P/5C