



WEB COPY



CrI.M.P.No.6034 of 2022

in

CrI.A.No.472 of 2022

D.BHARATHA CHAKRAVARTHY, J.

The learned counsel appearing on behalf of the petitioner would submit that in this case, on a perusal of the statement of the victim child under Section 164 Cr.P.C., and her evidence before this Court, it would be clear that there could have been no penetrative sexual assault on the child. Further, the medical evidence does not support the case of the prosecution and therefore, being a child of 14 years of age, no penetrative sexual assault in the manner as said to have happened is possible. The learned counsel for the petitioner would submit that taking the communal hatred into consideration and because the petitioner thrived in the hostile atmosphere and still giving good results in the school, taking advantage of the situation all have foisted the case against the petitioner and absolutely, there is no truth in the allegations of the petitioner. When the school is open and the children are coming for collecting books and even as per the version of the child, two other children came for asking doubt, in such circumstances, the petitioner cannot venture into this act. Therefore, he would submit that there is prima facie case for the petitioner and prays for suspension of sentence.



WEB COPY

2.Per contra, the learned Government Advocate would submit that in this case, the victim has deposed before the Court and the definition of penetrative sexual assault under Section 3 of the Act is much wider and deep penetration or actual intercourse in the manner as if it would happen between adults is not necessary in the case of POCSO Act and the victim is a 14 years child and therefore, it cannot be said that the case is against the prosecution.

3.I have considered the rival submissions and perused the material records in this case. As rightly pointed out by the learned Government Advocate, I am of the view that in this case, it cannot be stated that the medical evidence is against the prosecution and the prosecutrix has deposed before the Court concerned in the 164 statement and in the trial. Prima facie there is a case against the petitioner. In the case of this nature, where, the teacher is involved in such offences, this Court is not inclined to grant suspension of sentence to the petitioner for the present.

4.Accordingly, this petition is dismissed.

07.07.2022
(½)

sli



WEB COPY



D.BHARATHA CHAKRAVARTHY, J.

sli

Crl.M.P.No.6034 of 2022
in
Crl.A.No.472 of 2022

07.07.2022
(1/2)