



Crl.M.P.No.10177 of 2022 in Crl.A.No.743 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.10177 of 2022

in

Crl.A.No.743 of 2022

Vazhmuni

.. Appellant

Vs

The State Rep. by
Inspector of Police
All Women Police Station
Panruti, Cuddalore District.
(Crime No.6 of 2021)

.. Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 389(1) r/w Section 439 of the Code of Criminal Procedure to set aside the judgment and order dated 24.05.2022 in SC.No.51 of 2021 on the file of the Sessions Judge Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore and acquit the appellant of all the charges.

For Appellant : Mr.G.R.Hari

For Respondent : S.Vinoth Kumar
Government Advocate (Crl. Side)



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ORDER

Learned counsel for the petitioner submits that the allegation in this case is of that, when the victim girl was sleeping in her house, through window, by using stick, the petitioner tried to disturb her and harass her by saying that she should come and have intercourse with him. Upon such thing, the father of the victim girl started to chase the petitioner and he ran away. Therefore, even having the allegation on the face value, the Trial Court erroneously convicted the petitioner. Learned counsel would submit that the petitioner has surrendered today (i.e. 25.08.2022), therefore, prays for suspension of sentence.

2. *Per contra*, learned Government Advocate (Crl. Side) would submit that, in any event, from the act of the accused, the sexual intent can very well be presumed and the Trial Court has rightly convicted the petitioner.

3. I have considered the rival submissions made on either side and perused the material record of this case and considering the nature of



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allegation against the petitioner / accused, considering the fact that the punishment imposed is of three years and considering the fact that he has surrendered before the Trial Court, I am of the view that this is a fit case for grant of suspension of sentence, pending appeal and therefore, I am inclined to suspend the sentence and grant bail to the petitioner on the following conditions:-

(a) the petitioner is ordered to be released on bail, on his executing 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 Sessions Judge Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore ;

(b) the petitioner and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhar Cards or Bank Pass books to ensure their identities;



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(c) the petitioner shall appear before the Trial Court on the first working day of every English Calendar Month at 10.30 A.M until the disposal of the Criminal Appeal 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.

4. This Criminal Miscellaneous Petition is ordered accordingly.

25.08.2022

Index : yes/no

Speaking order/Non-speaking order

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- To
1. The Inspector of Police
All Women Police Station
Panruti, Cuddalore District.
(Crime No.6 of 2021)
 2. The Public Prosecutor, High Court of Madras.
 3. The Sessions Judge
Special Court for Exclusive Trial of Cases
under POCSO Act, Cuddalore .
 4. The Superintendent
Central Prison, Cuddalore.



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D.BHARATHA CHAKRAVARTHY. J.,

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