



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

Wednesday, the Sixth day of July Two Thousand and Twenty Two

WEB COPY

PRESENT

**The Hon`ble Mr.Justice K.MURALI SHANKAR**

CRL MP(MD) No.5919 of 2022  
in  
CRL.A.(MD)No.215 of 2022

GANAPATHI

... PETITIONER/APPELLANT

Vs

THE STATE REP. BY,  
THE INSPECTOR OF POLICE,  
VENGAMEDU POLICE STATION,  
KARUR DISTRICT.  
(CRIME NO.110/2019).

... RESPONDENT/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 passed by the Learned Additional Sessions Court, Fast Track Mahila Court, Karur in Spl.SC.No.5/2019, dated 12.11.2021 and grant bail to the petitioner, till the disposal of the Criminal Appeal.

**Prayer in CRL A(MD) No.215 of 2022:**

Pleased to call for the records and set-aside the order dated 12.11.2021 passed in Spl.SC.No.5/2019 on the file of the Additional Sessions Judge, Fast Track Mahila Court, Karur.

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.SIVAKUMAR V, Advocate for the petitioner and of MR.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed by the Additional Sessions Court, Fast Track Mahila Court, Karur, in Spl.S.C.No.05 of 2019, dated 12.11.2021, till the disposal of the appeal.



2.The case of the prosecution is that the defacto complainant is having three daughters, that her husband had died 15 years back, that the accused, who lived two streets next to the house of the complainant, used to conduct pooja on every Friday and he used to call the ladies and children who lives nearby, that the daughters of the defacto complainant had been attending pooja, that on 03.05.2019, after returning from pooja, her three daughters remained silent and were crying, that again on 10.05.2019, the victims informed their mother that the accused had harassed all the three daughters of the complainant on different dates, that the accused after completing the pooja used to call the girls into room one by one and used to press the chest of the children and kiss them and also insert fingers on the private part and harassed them, that he used to kiss the private parts and performed disgusting acts; that the accused was doing all these for the past two years, that since the accused has threatened the victim girls, they remained silent and that on the basis of the complaint lodged, FIR came to be registered in Crime No. 110 of 2019, for the offence under Sections 7 and 8 of POCSO r/w 354 A and 506(i) IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act.

3.During trial, 20 witnesses have been examined as P.W.1 to P.W.20 and 18 documents were exhibited as Ex.P.1 to Ex.P.18. The defence had examined three witnesses as D.W.1 and D.W.2 and exhibited 1 document as Ex.D.1.

4.The learned Additional Sessions Judge (Fast Track Mahila Court), Karur, upon considering the evidence adduced and on hearing the arguments of both the sides has passed the impugned judgment on 12.11.2021, convicting the petitioner/accused under Section 6 (2 counts) and Section 8 of POCSO Act, Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998 , and Sections 294(b) and 506(i) IPC and sentenced him to undergo 10 years rigorous imprisonment for each count and to pay a fine of Rs.50,000/-, for each count, in default to undergo one year for each count for the offence under Section 6 (2 counts) of POCSO Act; that he sentenced to undergo five years rigorous imprisonment and to pay a fine of Rs.50,000/-, in default to undergo six months simple imprisonment for the offence under Section 8 of POCSO Act and also convicted for the offence under Section 4 of TNPHW Act and sentenced him to undergo two years imprisonment and to pay a fine of Rs.10,000/- in default to undergo three months simple imprisonment and sentenced him for a term of three months for the offence under Section 294(b) IPC and two years imprisonment for the offence under Section 506(i) IPC. The petitioner/accused, challenging the above judgment of conviction and sentence, has preferred the appeal along with above application for suspension of sentence.



5. The learned counsel appearing for the petitioner submitted that P.W.1 mother of the victim girls admitted that the jewels belonging to the appellant/accused were stolen from his house and the Police enquired the victim girls; that the witness P.W.2 also admitted that the jewels were stolen and Police complaint was preferred; that the petitioner extended financial assistance to P.W.1's family and extended support for education of P.W.2 to P.W.4 and that instead of returning the jewels allegedly stolen, P.W.1's family has preferred the above complaint with evil intention.

6. The learned counsel for the petitioner would further submit that P.W.1 admitted that P.W.2 and P.W.3 had lovers, that the Medical Officer P.W.13 clearly deposed that P.W.2 to P.W.4 were having sexual intercourse and that a false case has been foisted against the present petitioner.

7. The learned Additional Public Prosecutor appearing for the State would submit that the grounds raised by the petitioner are vague and unsustainable; that the trial Court after careful consideration of oral and documentary evidences as well as the medical reports, gravity of the offence, has rightly convicted the petitioner, that the victim girls had clearly deposed in their evidence about the sexual assault committed by the petitioner/accused and that the victim children, who were aged 15 and 16 years would not have any malice or ill will against any one.

8. Considering the above facts and circumstances and also the seriousness and gravity of the offence alleged and that the petitioner has been in incarceration from the date of judgment i.e., on 12.11.2021, this Court is not inclined to suspend the sentence imposed at this point of time.

9. Accordingly, the Criminal Miscellaneous Petition is dismissed.

sd/-

06/07/2022

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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 ADDITIONAL SESSIONS JUDGE,  
FAST TRACK MAHILA COURT, KARUR.
2. THE INSPECTOR OF POLICE,  
VENGAMEDU POLICE STATION,  
KARUR DISTRICT.
3. THE SUPERINTENDENT,  
CENTRAL PRISON, TRICHY-20.
4. THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER  
IN  
CRL MP(MD) No.5919 of 2022  
in  
CRL.A.(MD)No.215 of 2022  
Date :06/07/2022

das  
USK/JM/SAR-I/08.07.2022/4P/5C