



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

Tuesday, the Twenty Eighth day of June Two Thousand and Twenty Two

PRESENT

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The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP (MD) No.5851 of 2022
in
CRL.A. (MD) .No.267 of 2022

NAGARAJAN

... APPELLANT/PETITIONER

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUPPARANKUNDRAM,
MADURAI CITY.

... 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 against the petitioner in Spl.SC.No.5/2019 dated 21/02/2022 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.

PRAYER IN CRL.A. (MD) .No.267 of 2022 :

Pleased to call for the records in Spl.S.C.No.5/2019 dated 21.02.2022 passed by the Learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Madurai and to set aside the same.

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.KARUPPASAMY PANDIYAN G, Advocate for the petitioner and of MR.B.NAMBI SELVAM, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence passed in Spl.S.C.No.05 of 2019, dated 21.02.2022, on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, till the disposal of this Criminal Appeal.

2.The case of the prosecution is that the petitioner called the victim girl aged 9 years very often and sexually abused her by giving 10 rupees or 20 rupees for each occasion and thereafter, threatened the victim girl that in case if she informed the incident to her parents, he would cut her throat.



3. On the basis of the complaint, FIR came to be registered in Crime No.9 of 2018 for the offence under Sections 5(m), 5(l) and 6 of Protection of Child from Sexual Offences Act, 2012 and subsequently, the case was altered into Sections 5(m), 5(l) and 6 of Protection of Child from Sexual Offences Act, 2012 and Section 506 (i) IPC. After completing investigation, the respondent police has laid the final report for the offence under Sections 5(m), 5(l) and 6 of Protection of Child from Sexual Offences Act, 2012 and Section 506(i) IPC as against the petitioner/accused.

4. During the trial, the prosecution has examined 11 witnesses as P.W.1 to P.W.11 and exhibited 13 documents as Ex.P1 to Ex.P13 and one Court exhibit as Ex.C.1., whereas, the defence side, one witness was examined, but no exhibit was marked.

5. After completing the trial, the learned Sessions Judge found the petitioner guilty and convicted him for the offence under Sections 5(m), 5(l) and 5(i) r/w 6 of POCSO Act and sentenced him to undergo 20 years Rigorous Imprisonment and to pay a fine of Rs.5,000/- in default to undergo one year Rigorous Imprisonment and ordered to pay a compensation of Rs.50,000/- and acquitted the petitioner/accused from the offence under Section 506(i) IPC. Aggrieved by the said Judgment of conviction and sentence, the petitioner/accused has preferred the present appeal along with the above Miscellaneous Petition seeking suspension of sentence.

6. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

7. The learned counsel for the petitioner would submit that the trial Court had simply relied on the statements of the victim girl recorded under Sections 161(3) and 164 of Cr.P.C. and that the trial Court has rendered conviction only based upon the above statements and as such, the impugned Judgment is liable to be set aside.

8. The learned Additional Public Prosecutor would submit that the victim was aged about 9 years at the time of alleged occurrence and that the prosecution through sufficient evidence has proved the offences under Sections 5(m), 5(l) and 5(i) r/w 6 of POCSO Act and there are ample incriminating materials available to attract the offence against the petitioner/accused.

9. Considering the above facts and circumstances of the case and also considering the seriousness and gravity of the offence alleged and also the fact that the petitioner has been in incarceration from the date of Judgment i.e., on 21.02.2022, this Court is not inclined to grant suspension of sentence to the petitioner.



10. In the result, this Criminal Miscellaneous Petition is dismissed.

sd/-
28/06/2022

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/28/2022

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

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,
THIRUPPARANKUNDRAM,
MADURAI CITY.
3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL MP(MD) No.5851 of 2022
in
CRL.A.(MD).No.267 of 2022
Date :28/06/2022

sj i
USK/SVR/SAR-II/04.07.2022/3P/5C