



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

Tuesday, the Twelfth day of July Two Thousand and Twenty Two

PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.7034 of 2022
in
Crl.A.(MD)No.394 of 2022

SUJITHKUMAR @ SONAIMUTHU

... PETITIONER/APPELLANT

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUPARANGUNDRAM, MADURAI DISTRICT.
(CRIME NO. 111 OF 2013).

... 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 senence passed in Spl.S.C.No. 52/2016 on the file of the Hon`ble Sessions Judge (Special Court POCSO Act Case), Madurai Dated. 28.03.2022, and be released on bail on his own bond pending disposal of the instant Criminal Appeal.

PRAYER IN Crl.A.(MD)No.394 of 2022 :

Pleased to call for the judgment Spl.S.C.No.52 of 2016 on the file of the Hon'ble Session Judge (Special Court - POSCO Act Case) Madurai dated 28.03.2022 and set aside the same and acquit the accused from the charge framed against him.

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.KANNAN.G, 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 on the petitioner/appellant by the learned Sessions Judge, (Special Court-POSCO Act Cases), Madurai District in Spl.S.C.No.52 of 2016, dated 28.03.2022, till the disposal of the Criminal Appeal.

2.The case of the prosecution is that the petitioner by giving false promise to marry the de-facto complainant, who is aged about 16 years, had sexual intercourse with her on many times. As a consequence, the de-facto complainant was eight months pregnant. Hence, the complaint.



3. On the basis of the complaint, FIR came to be registered in Crime No.111 of 2013 for the offence under Sections 6 and 10 of Protection of Child from Sexual Offences Act, 2012 and subsequently, the case was altered into Sections 5(1), 5(j)(ii) r/w 6 of Protection of Child from Sexual Offences Act, 2012. After completing the investigation, the respondent police has laid a final report for the offence under Sections 5(1), 5(j)(ii) r/w 6 of Protection of Child from Sexual Offences Act, 2012 as against the petitioner/accused.

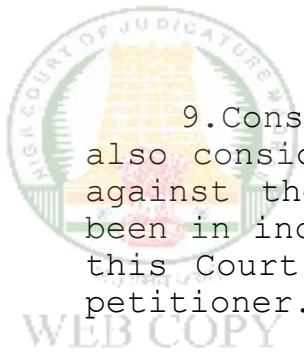
4. During the trial, the prosecution has examined 12 witnesses as P.W.1 to P.W.12, exhibited 16 documents as Ex.P1 to Ex.P16 and one Court exhibit marked as Ex.C.1., whereas, the defence side, one witness was examined and one exhibit was marked.

5. After completing the trial, the learned Sessions Judge found the petitioner guilty and convicted him for the offence under Sections 5(1), 5(j)(ii) r/w 6 of Protection of Child from Sexual Offences Act, 2012 and sentenced him to undergo ten years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo one year Simple Imprisonment. 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 petitioner and the victim girl were living as husband and wife with their parents consent and the petitioner's first wife consent, that the victim was denied to go the medical examination and that P.W.1 and P.W.2 were treated as hostile witnesses and P.W.3 to P.W.6 did not support the prosecution case. He would further submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

8. The learned Additional Public Prosecutor appearing for the respondent would submit that the trial Court had specifically observed that the medical reports, expert opinion and DNA result clearly proved the case of the prosecution and the victim girl was subjected to continuous penetrative sexual assault by the petitioner on several times prior to the lodging of complaint. He would further submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.



9. Considering the above facts and circumstances of the case and also considering the seriousness and gravity of the offence alleged against the petitioner and also the fact that the petitioner has been in incarceration from the date of Judgment i.e., on 28.03.2022, this Court is not inclined to grant suspension of sentence to the petitioner.

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

sd/-

12/07/2022

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/07/2022

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

TO

1. THE SESSIONS JUDGE,
(SPECIAL COURT POSCO ACT CASES), MADURAI.
2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUPARANGUNDRAM,
MADURAI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.G.KANNAN, Advocate (SR-7027[I] dated 13/07/2022)

ORDER IN
CRL MP(MD) No.7034 of 2022
in
Crl.A.(MD)No.394 of 2022
Date :12/07/2022

sjj
USK/SVR/SAR-III/22.07.2022/3P/5C