



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

Tuesday, the Twentieth day of September Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.9875 of 2022
in
CRL.A.(MD)No.520 of 2022

SELVADURAI

... PETITIONER/APELLANT/
SOLE ACCUSED

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
PANDANALLUR POLICE STATION,
THANJAVUR DISTRICT.
CRIME NO.224 OF 2019.

... RESPONDENT/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 by the Learned Sessions Judge, Special Court for Exclusive Trial of Case under POCSO Act, Thanjavur in Special Sessions Case No.4 of 2022 dt.27.5.2022 and release the Petitioner on bail till the disposal of C.A.No. Of 2022 on the file of this Hon'ble Court.

PRAYER in CRL.A.(MD)No.520 of 2022 :

To call for the entire records in connection with the Special Sessions Case No.04 of 2020 on the file of the Learned Sessions Judge, Special Court for Exclusive Trial of case under POCSO Act, Thanjavur and set aside the conviction and sentence imposed by the Learned Sessions Judge, Special Court for Exclusive Trial of Case under POCSO Act, Thanjavur in Special Sessions Case No.4 of 2020 dated 27.5.2022.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.K.SARAVANAN, Advocate for M/S.ARIVAZHAGAN.S, Advocate for the petitioner and of MR.RMS.SETHURAMAN, Additional Public Prosecutor, on behalf of the Respondents the court made the following order:-



This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Sessions Judge, Special Court for Exclusive Trial of Case under POCSO Act, Thanjavur, in Sp.S.C.No.4 of 2022, dated 27.05.2022 and enlarge the petitioner on bail, pending disposal of the Appeal.

WEB COPY

2. Case of the prosecution in brief:-

The victim girl is aged about 10 years and the petitioner is a neighbour. On 05.10.2019, when the victim girl was playing in front of the house, the accused namely, the petitioner herein, called the victim girl for purchasing some articles. But, later, dragged her inside of the house. Hugged, pressed her chest and also caused assault. He made a nail marks on her right cheek. On the basis of the complaint given by the victim's mother, case was registered.

3. On the side of the prosecution before the Court, 16 witnesses have been examined 12 documents marked. No material object was exhibited. On the side of the accused, no witness was examined and no document marked.

4. At the conclusion of the trial, the Trial Court found the petitioner guilty and convicted the accused for the offence under Section 9(m) r/w 10 of the POCSO Act, 2012 and sentenced him to undergo 5 years of Simple Imprisonment and imposed fine amount of Rs. 50,000/-, in default to undergo Simple Imprisonment for a period of 1 year. Out of fine amount Rs.50,000/-, a sum of Rs.40,000/- was ordered as compensation to the victim girl. So, challenging the conviction and sentence, the main appeal has been preferred. Pending the main appeal, this petition came to be filed to suspend the sentence.

5. Heard both sides.

6. The learned counsel for the petitioner would submit that even as per the allegation made by the victim girl, no offence under Section 10 of POCSO Act has been made out and the statement of the victim girl is self contradictory in nature. The petitioner is aged about 62. Considering the oldness of the petitioner, he may be enlarged on bail by suspending the sentence.

7. Per contra, the learned Additional Public Prosecutor would submit that sufficient materials have been placed before the Court to record the finding of guilt. The evidence of victim girl is sufficient enough to record the finding of conviction.

8. It is very unfortunate case of old man aged about 62 and the victim girl aged about 10. The victim girl has given specific statement to the effect that she was taken to the kitchen portion of the house of the petitioner. There, he gagged her mouth and caused nail marks on her cheek also pressed her chest. She was assaulted by him. While committing her skirt, he touched her private part.



9. Reading of the cross examination of the victim girl vs that she denied the suggestion that when they were playing in the sand, was warned by the petitioner. She only caused assault with brick. Because of the said issue only, the petitioner slapped the victim girl. So, this shows that the victim girl is knowing well the seriousness of crime committed by the petitioner. When such a serious allegation has been made, I find no reason for suspending the sentence.

10. Considering the age factor of the victim, if sentence is suspended, there is every likelihood of making trouble to the victim girl again, So, this is not a fit case to suspend the sentence.

11. Accordingly, this Criminal Miscellaneous Petition is **dismissed**.

sd/-
20/09/2022

/ TRUE COPY /

/09/2022

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,
THANJAVUR.
2. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
3. THE INSPECTOR OF POLICE,
PANDANALLUR POLICE STATION,
THANJAVUR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.9875 of 2022
in
CRL.A.(MD) No.520 of 2022
Date :20/09/2022

dss
USK/VR/SAR-I/23.09.2022/3P/5C