



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

Friday, the Twenty Eighth day of October Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.8287 of 2022
IN
CRL A(MD) No.444 of 2022

SURENDRAN

... PETITIONER/APPELLANT/ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
THIRUVONAM POLICE STATION,
THANJAVUR DISTRICT.
CRIME NO.112 OF 2018.

... 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 sentences passed by the Learned Special Court for the Exclusive Trial of Cases under POCSO Act, Thanjavur in Special Sessions Case No.74 of 2019 (Old S.SC.No.40 of 2018) dt.14.06.2022 pending disposal of the above said Criminal Appeal.

Prayer in CRL A(MD).444 of 2022 :

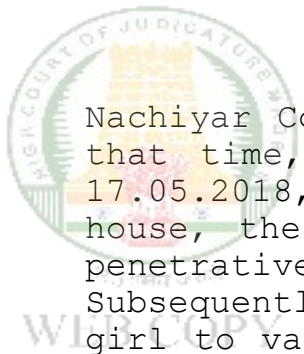
To admit this appeal on file, to call for the records from the Lower Court and duly set aside the judgment passed by the learned Special Court for the Exclusive Trial of Cases under POCSO Act, Thanjavur in Special Sessions Case No.74 of 2019 (Old SSC No.40/2018) dated 14.06.2022.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.BANUMATHY A, Advocate for the petitioner and of MR.SS.MADHAVAN, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Special Court for the Exclusive Trial of Cases under POCSO Act, Thanjavur, in Sp.S.C.No.74 of 2019, dated 14.06.2022 and enlarge the petitioner on bail, pending disposal of the Appeal.

2.Case of the prosecution in brief:-

At the time of occurrence, the victim girl was aged about 17 years and studying 2nd Year B.Sc (Chemistry) in Madhubala Kundavai



Nachiyar College. She came to her house during summer vacation. At that time, the accused told her that he wants to marry her. On 17.05.2018, at about 12 noon, when the victim girl was alone in the house, the accused person went to her house and subjected her to penetrative sexual assault repeatedly despite resistance. Subsequently, on 18.06.2018, at about 06.30 a.m, he took the victim girl to various places under the guise of marriage. Later, brought the victim girl to the village and dropped her. On the basis of the complaint given by the mother of the victim girl, case has been registered against the accused.

3.Before the Trial Court, on the side of the prosecution, 14 witnesses have been examined 15 documents marked. On the side of the defence, none was examined and no document was also marked.

4.At the conclusion of the trial, the Trial Court found the petitioner guilty and convicted him for the offence under Section 5 (1) r/w 6 of POCSO Act, 2012 and sentenced him to undergo 10 years of Rigorous Imprisonment and imposed fine amount of Rs. 50,000/-, in default to undergo Rigorous Imprisonment for a period of 1 year and convicted him for the offence under Section 361 r/w 363 IPC and sentenced him to undergo 7 years of Rigorous Imprisonment and imposed fine amount of Rs.10,000/- in default to undergo, Rigorous Imprisonment for a period of 6 months. 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 the age of the victim girl was not properly proved before the Trial Court. Even the birth certificate was obtained only subsequent to the date of occurrence. Even as per the evidence of the victim girl, she has not correctly stated her age and certificate of the school was not obtained. During the course of investigation, second alteration report was filed. Only at that time, development has been made by the prosecution for improving the case.

7.Per contra, the learned Government Advocate (Crl.Side) would submit that the victim girl was aged about only 17 years at the time of occurrence. So, there is no infirmity in the judgment passed by the Trial Court and no interference is called for.

8.With regard to the age, even though the birth certificate is obtained subsequently, that was relied by the Trial Court. So, even if take that the birth certificate obtained subsequently, she was undergoing 2nd year B.Sc (Chemistry) in a College. Probably, she would have been under 18 years of age. The contention on the part of the petitioner that there was love affair between himself and the victim girl is not supported by the evidence. The only one point



victim girl. She was kidnapped by the petitioner at the kn: it and taken to various places from 18.06.2018 till 24.06.2018 is highly unbelievable since it appears that she did not make any quarrel, cry, etc., to escape from the petitioner. So, what actually happened is a matter for consideration in the appeal.

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9. Since the judgment is of the recent origin 14th June 2022, if the petitioner is released on bail, there is every likelihood of making trouble to the victim girl. Even during enquiry, she has stated that the petitioner is making frequent trouble and threat.

10. Considering the above, this Criminal Miscellaneous Petition is **dismissed**.

sd/-

28/10/2022

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/11/2022

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

TO

- 1 THE JUDGE,
SPECIAL COURT FOR THE EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
THANJAVUR.
- 2 THE INSPECTOR OF POLICE, THIRUVONAM POLICE STATION,
THANJAVUR DISTRICT.
- 3 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP(MD) No.8287 of 2022

IN

CRL A(MD) No.444 of 2022

Date : 28/10/2022

DSS

RS/VR/SAR.2(02.11.2022) 3P-5C