



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

Friday, the Eighteenth day of November Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.9818 of 2022
IN
CRL A(MD) No.516 of 2022

MURUGESAN

... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

State Rep.by
THE INSPECTOR OF POLICE
SEITHUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.
CRIME NO.59 OF 2014

... 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 on the petitioner by the learned Special Court for Exclusive trial of POCSO Act Cases, Virudhunagar District at Sirviliputhur by its judgement in Spl.S.C.No.22 of 2020, Dated. 04.12.2020 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

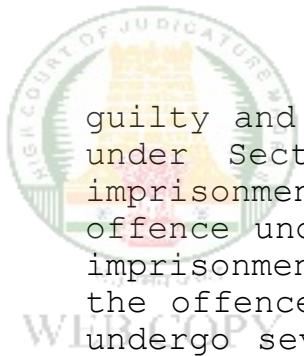
Prayer in CRL A(MD) No.516 of 2022 :

To call for the records of the impugned judgment made in Spl.S.C.No.22 of 2020 on the file of the Learned Special Court for Exclusive Trial of POCSO Act Cases, Virudhunagar District at Srivilliputtur dated 04.12.2021 and 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.JEGADEESH PANDIAN.M, Advocate for the petitioner and of MR.S.MANIKANDAN, 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 Judge, Special Court for Protection of Children from Sexual Offences Act Cases, Virudhunagar District at Srivilliputtur, dated 04.12.2021, in Spl.S.C.No.22 of 2020 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.

2.The learned counsel for the petitioner submitted that the petitioner, who is the sole accused in this case, has been found



guilty and convicted by the learned Sessions judge, for the offence under Section 366 IPC and sentenced him to undergo ten years imprisonment and imposed fine of Rs.1,000/- and convicted for the offence under Section 417 IPC and sentenced him to undergo one year imprisonment and imposed a fine of Rs.1,000/- and also convicted for the offence under Section 4 of POCSO Act, 2012 and sentenced him to undergo seven years imprisonment and imposed a fine of Rs.1,000/-. All sentences are ordered to be run concurrently. Set off under Section 428 Cr.P.C. was also ordered. If the fine amount is not paid, then the accused was ordered to undergo six months simple imprisonment each consequently.

3.The case of the prosecution in brief:

The PW1, who is the father of the victim girl and the accused are neighbours. There was matrimonial issue between the accused and her wife. So she was living with her parental home. The victim girl was aged about 15 years. Since the accused is a neighbour, the victim girl was friendly with the accused. Taking advantage of the immaturity of the victim girl on 12.02.2014, at about 2.30 a.m., the accused person kidnapped the victim girl and took her to a Lodge by falsely stated that they are husband and wife and where she was subjected to penetrative sexual assault. Later she was taken to another place, where she was also subjected to similar offence. Based upon the above said occurrence, the case was originally registered as girl missing and later finding the involvement of this petitioner, the victim girl and the accused were secured and after completing the formalities of investigation, final report was filed. To prove the prosecution case, on the side of the prosecution 20 witnesses have been examined, 12 documents were marked.

4.At the conclusion of the trial, the trial Court found that the prosecution has proved the case beyond all reasonable doubt and convicted the petitioner and sentenced him as stated above. Challenging the above said conviction and sentence, the petitioner has filed appeal and pending appeal seeking suspension of sentence the present petition has been filed.

5.The learned counsel for the petitioner submitted that even as per the Medical evidence, there was no trace of any symptom of sexual assault; The statement under Section 164 Cr.P.C. of the victim girl was not recorded; PW2 has developed the case during the course of evidence; PW1 turned hostile and there was no objection on the side of the victim girl during the above said elopement, etc.,

6.Per contra, the learned Additional Public Prosecutor would submit that the victim girl was only aged about only 15 years at the time of the alleged occurrence. The Birth Certificate shows her Date of Birth as 12.09.1999. So the contention on the part of the accused that there was love affair between them cannot be taken into account at all. PW4 is the victim girl. She has stated that the



frequently picked up quarrel with him and he wanted to marry the victim girl. But that was not accepted by her. She was taken into various places and by compulsion, she was subjected to sexual assault. So on the basis of the complaint both were secured. It was suggested to her that now she is married to some other boy and living with him. That was admitted by her. It has been stated that voluntarily she left the house. That was denied by her. During the course of medical examination, it was found that the hymen of the victim was not intact. This was taken into account by the trial Court to record the conviction of guilt.

7.Considering the age of the victim girl and the manner in which the above offence said to have been committed, it is not a fit case to exercise the power to enlarge the petitioner on bail by suspending the sentence. This petition deserves to be dismissed.

8.Accordingly, this Criminal Miscellaneous Petition is dismissed.

sd/-

18/11/2022

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

TO

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

ORDER

IN

CRL MP(MD) No.9818 of 2022

IN

CRL A(MD) No.516 of 2022

Date :18/11/2022

TM

RS/VR/SAR. (25.11.2022) 3P-5C