



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

Friday, the Second day of September Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.10424 of 2022
IN
CRL A(MD) No.538 of 2022

MURUGAN @ MURUGANANTH

... PETITIONER/SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
NAGGUNERI,
TIRUNELVELI DISTRICT.
(CRIME NO. 501 OF 2019)

... 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 substantive Sentence passed in Spl.Case.No. 260 of 2019, Dated. 11.08.2022 by the file of the Special Court for Exclusive Trial of cased under the POCSO Act, Tirunelveli.

PRAYER IN CRL.A(MD).538 of 2022:

Pleased to admit this Appeal on file and call for records from the Lower Court namely Special Court for Exclusive trial of cases under the POCSO Act, Tirunelveli in Spl.Case.No.260/2019 and to set-aside the Judgment dated 11.08.2022 in the above case passed by the above Lower Court and thereby Acquit the above Accused from the charges.

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.RAAMAKRISHNAN.KA., Advocate for the petitioner and of Mr.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, While admitting the CRL.A., the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in Spl.S.C.No.260 of 2019, dated 11.08.2022, on the file of the learned Sessions Judge, Special Court for Exclusive Trial of cases under the POCSO Act, Tirunelveli, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the petitioner had married the victim girl, who is a minor, and they stayed at

<https://www.mhc.tn.gov.in/judis>



Kovilpatti for two months and at that time, the petitioner had sexual intercourse with her and on that basis, FIR came to be registered in Crime No.501 of 2019.

3. The respondent police, after completing the investigation, has filed the final report and after committal, the case was taken on file in Spl.S.C.No.260 of 2019 and the same was pending on the file of the learned Sessions Judge, Special Court for Exclusive Trial of cases under the POCSO Act, Tirunelveli.

4. During the trial, the prosecution has examined 14 witnesses as P.W.1 to P.W.14 and exhibited 22 documents as Ex.P.1 to Ex.P.22. The defence has adduced neither oral nor documentary evidence.

5. The learned Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, has passed the impugned judgment dated 11.08.2022 convicting the petitioner/accused for the offence under Section 363 IPC and sentenced him to undergo three years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo three months Rigorous Imprisonment. The Trial Court has suspended the sentence imposed on the petitioner in Crl.M.P.No.2341 of 2022 from 11.08.2022 to 02.09.2022. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

6. The learned counsel for the petitioner would 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. He would further submit that the petitioner has already paid fine amount.

7. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

8. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

9. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

10. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:-



(i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Special Court for Exclusive Trial of Cases under the POCSO Act, Tirunelveli, Tirunelveli District;

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(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-

02/09/2022

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02/09/2022

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 THE POCSO ACT, TIRUNELVELI, TIRUNELVELI DISTRICT.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
NAGGUNERI, TIRUNELVELI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.RAAMAKRISHNAN.KA., Advocate SR.No.9519

ORDER IN

CRL MP(MD) No.10424 of 2022 IN
CRL A(MD) No.538 of 2022
Date :02/09/2022

csm

SA/SVR/SAR.1/02.09.2022/3P/5C