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

Wednesday, the Sixteenth day of November Two Thousand and
Twenty Two
PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.13467 of 2022

IN

CRL A(MD) No.715 of 2022

MUTHUKUMAR

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
SHOLVANDAN POLICE STATION,
MADURAI DISTRICT.
CRIME NO.515 OF 2017.

... 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 sentence imposed against the Petitioner/Appellant in SSC.No.96 of 2018 by the Sessions Judge, Principal Special Court for exclusive trial of cases under POCSO Act, Madurai on 27.9.2022, and to enlarge the Petitioner/Accused on bail, pending disposal of the Criminal Appeal filed by him.

Prayer in Crl.A(MD).715/2022:

Pleased to call for records and to set aside the judgment dated 27.09.2022 in S.S.C.No.96 of 2018 on the file of the Sessions Judge, Principal Special Court for exclusive trial of cases under POCSO Act, Madurai and acquit the appellant/accused.

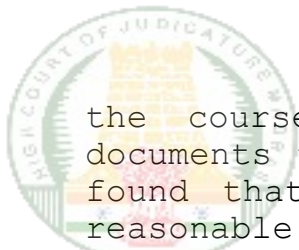
Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.RAMASUBRAMANIAN M, Advocate for the petitioner and of Mr.SS.MADHAVAN, Government Advocate(crl.side) on behalf of the Respondent, the court made the following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

This petition is filed by the petitioner to suspend the sentence imposed in S.S.C.No.96 of 2018, dated 27.09.2022, on the file of the Sessions Judge, Principal Special Court for Exclusive Trial of cases under POCSO Act, Madurai.

2.The case of prosecution in brief is that on 10.10.2017, at about 12.45PM, the victim girls, who are aged about 6 and 7 years, were playing near Vinayagar temple in the village. At that time, the accused gave chocolates to them and took them to nearby area and removed their clothes and sexually assaulted them.

3.On the basis of above said occurrence, a case was registered and after investigation process, final report was filed. During

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



the course of trial, 17 witnesses have been examined 14 documents were marked. At the conclusion of trial, the trial Court found that charges against the petitioner was proved beyond all reasonable doubts and accordingly, for the offence under Section 9(m) r/w 10 (2 counts) of POCSO Act, he was sentenced to undergo rigorous imprisonment for 5 years for each count and to pay a fine of Rs.10,000/-, in default to undergo simple imprisonment for 6 months for each count. Challenging the same, the accused filed this petition, for suspension of sentence.

4.The learned counsel for the petitioner submitted that the victims PW2 and PW3 are children, who are not competent to give evidence and even as per the medical report, no external injuries were found. Due to enmity existed between PW4 and the accused, the above said false complaint has been lodged.

5.During the course of trial, there is no record to show the enmity between PW4 and the accused. The victims had also given cogent and convincing evidence. Considering the age of victims and the fact that the petitioner is a matured man, aged about 22 years and also considering the gravity of the offence, he is not entitled for suspension of sentence.

6.Accordingly, this Criminal Miscellaneous Petition stands dismissed.

sd/-

16/11/2022

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/11/2022

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

TO

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

ORDER IN

CRL MP(MD) No.13467 of 2022
IN CRL A(MD) No.715 of 2022
Date :16/11/2022

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