



Crl.M.P.No.2522 of 2022 in
Crl.A.No.165 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.MP No.2522 of 2023 in
Crl.A No.165 of 2023

Murugandanam

... Petitioner

Vs.

State rep. by the Inspector of Police,
Neiveli Thermal Police Station,
Cuddalore District.
(Crime No.186 of 2020)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) r/w.439 of Cr.P.C. to suspend the sentence imposed on the petitioner in Spl S.C.No.37 of 2020, vide order dated 11.01.2023 passed by the learned Sessions Judge, Special Court for Exclusive Trial of cases under POSCO Act, Cuddalore, pending disposal of the Criminal Appeal.

For Petitioner	: Mr.P.Muthumize Selvakumar for Mr.G.S.Dhanalakshmi
For Respondent	: Mr.A.Gokulakrishnan, Additional Public Prosecutor



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ORDER

This petition has been filed to suspend the sentence imposed on the petitioner in Spl S.C.No.37 of 2020, vide order dated 11.01.2023 passed by the learned Sessions Judge, Special Court for Exclusive Trial of cases under POSCO Act, Cuddalore, pending disposal of the Criminal Appeal.

2. The learned Trial Judge, vide Judgment dated 11.01.2023 passed in Spl S.C.No.37 of 2020, convicted and sentenced the petitioner, as extracted hereunder.

<i>provision under which convicted</i>	<i>Sentence</i>
Sec.366 of IPC	To undergo 7 years rigorous imprisonment and to pay a fine of Rs.1000/-, in default, to undergo 3 months simple imprisonment.
Sec.3 & 4 of POSCO Act 2012	To undergo 7 years rigorous imprisonment and to pay a fine of Rs.2000/-, in default, to undergo 3 months simple imprisonment.

3. Aggrieved by the judgment of conviction passed by the Trial Court, the petitioner filed the above Criminal Appeal along with the instant



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4.The learned counsel for the petitioner submitted that in this case, the accused was not given an opportunity to cross examine the prosecution witnesses, and without the prosecution witnesses being cross-examined by the accused, the learned trial Judge, relied upon the prosecution evidence, found guilty and convicted the petitioner. The learned counsel further submitted that the petitioner and the victim girl are lovers and hence, there are arguable points and fair chances of getting success in the Criminal Appeal. The trial Court, based upon the untested prosecution witnesses by cross-examination, convicted the petitioner and he has been in judicial custody from 11.01.2023 and hence, the learned counsel prayed for suspension of sentence.

5. Mr.A.Gokulakrishnan, learned Additional Public Prosecutor has fairly conceded that in this case, the prosecution witnesses were not cross-examined by the accused/petitioner and PW1 in her deposition has stated

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6.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the impugned judgment and the materials placed on record.

7.I have considered the submissions of the learned counsel on either side and the facts would reveal that the petitioner is the accused in Spl S.C.No.37 of 2020, on the file of the learned Sessions Judge, Special Court for Exclusive Trial of cases under POSCO Act, Cuddalore. The respondent Police registered a case against the accused/petitioner for the alleged offences committed under Sections 366 of IPC and Sections 3 & 4 of POSCO Act 2012. The trial Court, after examining PW1 and based upon her evidence, found the petitioner guilty of the charges and convicted and imposed sentence on the petitioner for the offences under Sections 366 of IPC and Sections 3 & 4 of POSCO Act 2012. Further, it is noticed that all the prosecution witnesses were not cross examined by the

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accused/petitioner. So, without testing the prosecution witnesses on the cross examination, the trial Court relied upon the evidence let in by the witnesses in their chief-examination and found the petitioner guilty and convicted him. Therefore, Taking into consideration of the submission of the learned counsel appearing on either side, this Court finds that, the petitioner has substantial grounds in this Criminal Appeal, which require a detailed appraisal and also the fact that the petitioner has been in judicial custody from 11.01.2023 onwards, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence.

8. Accordingly, it is ordered as follows.

(i) The substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that 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 Sessions Judge, Special Court for Exclusive Trial of cases under POSCO Act, Cuddalore.

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(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the afore said Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iii) The petitioner shall appear before the Trial Court, as and when required.

31.03.2023
(2/2)

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Issue on 03.04.2023

To

1. The Judge, Special Court for Exclusive Trial of cases under POSCO Act, Cuddalore.

2. The Inspector of Police,
Neiveli Thermal Police Station,
Cuddalore District.
(Crime No.186 of 2020)

3. The Superintendent, Central Prison, Cuddalore.

4. The Public Prosecutor, High Court of Madras, Chennai.

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V.SIVAGNANAM, J.,

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