



*Crl.MP.No.6613 of 2023
in Crl A. No.315 of 2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.05.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.M.P.No. 6613 of 2023
in Criminal Appeal No. 315 of 2023

Velayutham

...Petitioner/Appellant

-Vs-

The State Represented by
The Inspector of Police
Mettupalayam Police Station,
Puducherry.

... Respondent/Respondent

Prayer: Criminal Miscellaneous petition filed under Section 389 of Code of Criminal Procedure, to suspend the order of conviction order passed by the learned Special Judge (Under the POCSO Act-2012) Principal Sessions Judge, Puducherry in Special Sessions Case No.5/2021 dated 23.02.2023 and enlarge the appellant/accused on bail, pending disposal of the above Criminal Appeal.

For Petitioner : Mr.B. Balavijayan

For Respondents : Mr.K.S.Mahanadass
Public Prosecutor (Pondy)



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ORDER

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2. Heard both sides.

3. The petitioner, who is the sole accused in Special Sessions Case No.5 of 2021 is convicted and sentenced by the trial court, by its judgment dated 23.02.2023 as follows;

Petitioner's Rank	Provision under which convicted	Sentence
Sole accused	U/s.10 of POCSO Act, 2012	to undergo 5 years RI and a fine of Rs.1000/-, in default in payment of fine, to undergo RI for a period of one year.
	U/s.12 of POCSO Act, 2012	To undergo 1 year RI and to pay a fine of Rs.1000/-, in default in payment of fine, to undergo 3 months RI
	U/s.323 of IPC	To undergo SI for two months
The sentence of imprisonments imposed on the petitioner were ordered to run concurrently		

4. Aggrieved over the judgment of conviction and sentence



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imposed on the petitioner by the trial court, the petitioner has filed the present criminal appeal. The petitioner has also filed Criminal Miscellaneous Petition in Crl MP No.4288 of 2023 for suspending the order of conviction which was dismissed on 03.04.2023. Again this petition is filed for suspending the order of conviction.

4. The learned counsel for the petitioner submitted that the judgment of the trial court is contrary to law, weight of evidence and probabilities of the case. The evidence of PWs.1 and 3 are concocted one. After filing divorce application against the petitioner, PW1 instigated her daughter PW2 to depose against her father. Hence the evidence of PW2 being a tutored evidence, cannot be relied upon. Further, the evidence of PW3-mother of PW1 also cannot be relied upon. The trial court, without considering the above aspect, erroneously convicted and sentenced the petitioner. Thus, he submitted that there are arguable points in this appeal and the petitioner has every chance to succeed in this Criminal appeal. Thus, he prayed for suspension of sentence till the disposal of this Criminal appeal.



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5. The learned Public Prosecutor (Puducherry) objected to suspend the sentence and grant bail to the petitioner and submitted that at the time of deposing before the trial court, the victim girl is aged 14 years. In her evidence, she had clearly deposed about the activities of her own father and hence, there is no reason to disbelieve the evidence of PW2. Thus he seeks for dismissal of this petition.

6. Considering the facts and circumstances of the case and also taking note of the fact that the earlier Suspension of sentence application was dismissed only on 03.04.2023 and there is no change in circumstances, hence, this Court is not inclined to grant suspension of sentence to the petitioner.

7. Accordingly, this criminal miscellaneous petition is **dismissed**.

04.05.2023

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
jv/dsa



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To

1. The Special Judge (Under the POCSO Act-2012)
Principal Sessions Judge,
Puducherry.
2. The The Inspector of Police
Mettupalayam Police Station,
Puducherry.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.

jv/dsa

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