



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

Monday, the Thirtieth day of January Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.329 of 2023

IN

CRL A(MD) No.16 of 2023

THIYAGARAJAN

... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

State Rep.by
THE INSPECTOR OF POLICE
ALL WOMAN POLICE STATION,
AMBASAMUDRAM,
TIRUNELVELI DISTRICT.
(CRIME NO.12 OF 2018)

... 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 execution of sentence by granting bail in Special Case No.225 of 2019 dated 05.12.2022 on the file of the learned Sessions Judge and Special Court for Protection of Children from the Sexual Offence Act Cases, Tirunelveli till the disposal of the Criminal Appeal.

Prayer in CRL A(MD).16/2023 :

To admit this appeal on file, to call for the records from the lower court in Special Case No.255/2019 on the file of Sessions Judge & Special Court for protection of Children from the Sexual Offence Act Cases, Tirunelveli District and set aside the judgment dated 05.12.2022 by acquitting the accused and by allowing the Appeal.

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.PRABHU.K., Advocate for the petitioner and of MR.M.SAKTHI KUMAR, 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 against the petitioner in Special Case No.225 of 2019, dated 05/12/2022 by the Sessions Judge, Special Court for Protection of Children from Sexual Offences Act Cases, Tirunelveli and enlarge the petitioner on bail pending disposal of the criminal appeal.



2. The case of the prosecution in brief:-

The victim is aged about 17+ at the time of the alleged occurrence. On 11/11/2020, PW1 the mother of the victim girl returned to home and at that time, the victim girl was crying. On enquiry, she replied that she was in love with the petitioner and promising to marry her, the petitioner had sexual intercourse with her and later, refused to marry. On the basis of the above said occurrence, the case was registered for the offences under section 376 IPC and section 6 of POCSO Act, 2012. After completing the formalities of investigation, final report was filed against the petitioner and the case was taken on file in Special Case No.225 of 2019 by the trial court.

3.To prove the guilt of the accused, on the side of the prosecution, 13 witnesses have been examined and 26 documents were marked. On the side of the accused, no witness was examined and no document was exhibited.

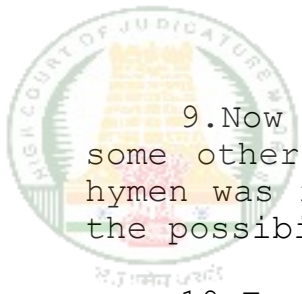
4.At the conclusion of the trial, the trial court found the petitioner guilty and convicted him for the offence under section 6 of POCSO Act and sentenced to undergo 10 years rigorous imprisonment and imposed a fine of Rs.5,000/- with default clause. Against which, the criminal appeal has been preferred before this court. Pending appeal seeking suspense of sentence, this petition has been preferred by the petitioner.

5.Heard both sides.

6.Now the learned counsel appearing for the petitioner would submit that on the date of the alleged occurrence, the victim was aged about 17+ and it was purely a love affair and to prove of the age of the victim girl, no proper proof was produced before the trial court and only the transfer certificate was produced. Now both of them married to some other people.

7.Per contra, the learned Government Advocate (Criminal side) would submit that even though the victim girl is aged about 17+ at the time of the occurrence, later, the petitioner refused to marry her.

8.The judgment is of the recent origin, it is seen that the aged of the victim was 17+ at the time of the alleged occurrence and she has also admitted during the course of the evidence that she was in love with the petitioner for quite some-time. Even though on the false promise of marrying her, he had sexual intercourse with her, later refused to marry her.



9. Now the subsequent development shows that both now and some other people. At the time of medical examination, the victim hymen was found not intact. On the above said medical examination, the possibility of intercourse was found out.

10. Even though, it is a love affair, the judgment is a recent origin, this court is not inclined to enlarge the petitioner on bail by suspending the sentence. The petitioner can revive the petition after a reasonable time.

11. In the result, this criminal miscellaneous petition is dismissed.

sd/-

30/01/2023

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/02/2023

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

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TO

1 THE SESSIONS JUDGE,
SPECIAL COURT FOR PROTECTION OF CHILDREN FROM
SEXUAL OFFENCES ACT CASES,
TIRUNELVELI.

2 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE
ALL WOMAN POLICE STATION, AMBASAMUDRAM,
TIRUNELVELI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.PRABHU, Advocate (SR-1465[I] dated 31/01/2023)

ORDER

IN

CRL MP(MD) No.329 of 2023

IN

CRL A(MD) No.16 of 2023

Date :30/01/2023

RS/VR/SAR.1(07.02.2023) 3P-6C