



CRL.M.P.(MD)No.3557 of 2023

CRL.M.P. (MD)No.3557 of 2023
in
CRL.A. (MD)No.155 of 2023

G.ILANGO VAN, J.

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner in Special SC No.18 of 2020, dated 03/11/2022 by the Sessions Judge, Special Court for POCSO Act cases, Virudhunagar District at Srivilliputhur and enlarge the petitioner on bail pending disposal of the criminal appeal.

2.The case of the prosecution in brief:-

The victim was studying 11th Standard in Coronation Higher Secondary School, Sivakasi. The accused was friendly with the victim girl, later started saying that he wants to marry her. On 07/12/2019, at about 10.00 am, the accused came to the house of the victim girl knowingly that no other person was available and by giving false promise that he will marry her asked her to come along with him. Believing the words of the accused, at about 11.30 am, the victim went out of the house and the accused took her to relatives house and stayed in the night, tied tali, forcibly subjected her to sexual intercourse stating that they have become husband and wife.



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3. On the basis of the complaint, a case in Crime No. 670 of 2019 was registered and after completing the formalities of investigation, final report was filed charging the accused for the offences punishable under sections 363 IPC and section 9 r/w 10 of the Protection of Child Marriage Act, 2006 and section 5(1) r/w 6 of the Protection of Children from Sexual Offences Act, 2012.

3. To prove the guilt of the accused, on the side of the prosecution, 13 witnesses have been examined and 23 documents were marked, apart from 11 material objects 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 363 IPC and sentenced to undergo 1 year rigorous imprisonment and imposed a fine of Rs. 2,000/- with default clause; for the offence under section 9 of the Protection of Child Marriage Act, 2006, to undergo 1 year rigorous imprisonment and imposed a fine of Rs. 2,000/-; and for the offence under section 5(1) r/w 6 of the POCSO Act, 2012, to undergo 20 years of rigorous imprisonment and imposed a fine of Rs. 2,000/- with default clause.



5. Against which, the criminal appeal has been preferred before this court.

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6. Pending appeal seeking suspense of sentence, this petition has been preferred by the petitioner on the ground that the statement that was given by the victim under section 164 Cr.P.C was not considered by the trial court. According to him, it is purely a love affair.

7. But the learned Additional Public Prosecutor would submit that the victim girl was aged about 15 years at the time of the occurrence and this petitioner was 24 years. According to him, there was no possibility of love affairs. The victim girl has stated in her evidence that on 19/12/2019 at about 11.00 am, she went along with the accused and stayed in the relatives house of the accused. On enquiry, he appears to have stated that he is going to marry the victim. In the night, tali was tied and she was subjected to sexual intercourse. On the next day morning, she went to her parental home and removed the tali. On the information given by her, the case was registered.

8. No doubt it is stated that she was friendly with the accused and went along with him at his advise. The age of the victim girl is stated to be 14 on the date of the alleged occurrence. The age of 14 years is not the age



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to choose the life partner. It appears that by taking of the immaturity of the girl, she was taken to his relatives house and tied tali forcibly and subjected to sexual intercourse, on 07/12/2019 night and on 09/12/2019. Absolutely, I find no merit in this petition.

9.In the result, this criminal miscellaneous petition is **dismissed**.

08.03.2023

Index : Yes/No
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