



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

Tuesday, the Twentieth day of June Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.6004 of 2023  
in  
CRL A(MD) No.299 of 2023

MURUGESAN ... Petitioner / Appellant / Sole Accused

Vs

THE STATE REP BY  
THE INSPECTOR OF POLICE  
ALL WOMEN POLICE STATION,  
OTTANCHATHIRAM,  
DINDIGUL DISTRICT.  
(CRIME NO.15/2015).

... 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 Sentence as imposed on the petitioner by means of a judgment dt 28.10.2022 made in Spl.Sessions Case No.32/2016 on the file of the Honourable Fast Track Mahila Court Dindigul District forthwith and thereby enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

Prayer in CRL A(MD) No.299 of 2023:

To allow the above appeal and consequently set aside the impugned judgment dated 28.10.2022 passed by the Hon'ble Fast Track Mahila Court, Dindigul, Dindigul District in Spl.Sessions Case No.32 of 2016 forthwith.

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.J.SANKARA PANDIAN, Advocate for the petitioner and of Mr.R.SIVAKUMAR, Government Advocate (Crl. side) on behalf of the Respondent, the court made the following order:-

|                      |                   |
|----------------------|-------------------|
| <b>RESERVED ON</b>   | <b>13.06.2023</b> |
| <b>PRONOUNCED ON</b> | <b>20.06.2023</b> |

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Dindigul, in Spl.S.C.No.32 of 2016, https://www.judges.gov.in/



dated 28.10.2022, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that on 04.10.2015 at about 12.00 noon, the petitioner/sole accused had taken the victim girl to his house, removed her dress and committed the penetrative sexual assault on her and also criminally intimidated her not to disclose the same and that on the basis of the complaint lodged, FIR came to be registered in Crime No.15 of 2015.

3. The respondent police, after completing the investigation, has filed the final report for the offences under Section 506(1) IPC and Section 6 of POCSO Act and the case was taken on file in Spl.S.C.No.32 of 2016 and the same was pending on the file of the Fast Track Mahila Court, Dindigul.

4. During trial, the prosecution has examined 13 witnesses as P.W.1 to P.W.13, exhibited 22 documents as Ex.P.1 to Ex.P.22 and marked 6 material objects as M.O.1 to M.O.6. The defence has adduced neither oral nor documentary evidence.

5. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the impugned judgment dated 28.10.2022 convicting the petitioner for the offences under Section 506(1) IPC and Section 6 of POCSO Act and sentenced him to undergo 1 year Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo 2 months Simple Imprisonment for the offence under Section 506(1) IPC and to undergo 20 years Rigorous Imprisonment and to pay a fine of Rs.20,000/-, in default, to undergo 6 months Simple Imprisonment for the offence under Section 6 of POCSO Act and that the above sentences were ordered to be run concurrently. Aggrieved by the said judgment of conviction and sentence, the accused has come forward with the present Criminal Appeal along with the above application for suspension of sentence.

6. The learned counsel appearing for the petitioner would submit that there is no eye witness in the present case and even P.W.2-brother of the victim girl is only a hearsay witness, that all the independent witnesses have turned hostile including P.W.2-brother of the victim girl, that the complaint has been lodged very belatedly nearly after 7 days, that the victim girl has given different version at different stage of the case, that there is absolutely no evidence for penetrative sexual assault, that the medical evidence does not support the case of the prosecution and that the trial Court, without considering the above vital aspects, has mechanically recorded the conviction.

7. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the grounds raised by the petitioner are vague and unsustainable, that the trial Court had observed in the judgment that the victim girl had clearly



deposed in her evidence before the trial Court as well as in her statement about the sexual assault committed by the petitioner, that the delay in lodging a complaint is not fatal in all the cases and more particularly in POCSO cases, that the sole testimony of the victim girl is sufficient to record the conviction provided her testimony is trustworthy and that the learned trial Judge, considering the evidences adduced including the medical evidence, has rightly come to the conclusion that the offences levelled against the petitioner were proved.

8. As rightly pointed out by the learned Government Advocate (Criminal Side), the learned trial Judge, upon considering the evidence available on record, has come to a decision that the victim girl was aged 11 years at the time of alleged occurrence and that since she has not completed 18 years of age, she can only be considered as a child under POCSO Act.

9. Considering the facts and circumstances of the case and also the seriousness and gravity of the offence allegedly proved against the petitioner and also the fact that the impugned judgment was passed on 28.10.2022 and the period of incarceration, this Court is not inclined to suspend the sentence imposed on the petitioner at this point of time.

10. In the result, this Criminal Miscellaneous Petition is dismissed.

sd/-  
20/06/2023

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/07/2023

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

CSM

To

1.The Sessions Judge,  
Fast Track Mahila Court,  
Dindigul, Dindigul District.

2.The Inspector of Police,  
All Women Police Station,  
Ottanchathiram,  
Dindigul District.

3.The Superintendent,  
Central Prison, Madurai.



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4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

ORDER

IN

CRL MP (MD) No.6004 of 2023  
in

CRL A (MD) No.299 of 2023

Date :20/06/2023

ED/SSS/SAR- (05/07/2023) 4P 5C