



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Wednesday, the Fifth day of July Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.8281 of 2023

in

CRL A(MD)No. 442 of 2023

SOLLAMADAN

... APPELLANT/SOLE ACCUSED

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
ALL WOMAN POLICE STATION,
AMBASAMUDRAM,
TIRUNELVELI DISTRICT
(CRIME NO.7 OF 2017)

... 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 and enlarge the petitioner on bail namely Sollamadan, S/o.Paraman, the petitioner/appellant/single accused pending disposal of the criminal appeal against Spl.Case No.25 of 2019 on the file of the Session Judge, Pocso Special Court, Tirunelveli District.

PRYAER IN CRL A(MD)No. 442 of 2023:

Pleased to call for the records and to set aside the conviction judgment passed by the Session Judge, Pocso Special Court, Tirunelveli District, in SPL.Case No. 25/2019 dated 08.09.2022.

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.KRISHNAN A.S., Advocate for the petitioner and of MR.SS.MADHAVAN, Government Advocate (Criminal Side) on behalf of the Respondent, the court made the following order:-



Reserved on : 28.06.2023

Delivered on : 05.07.2023

This petition has been filed to suspend the sentence imposed on the petitioner in Spl.C.No.25 of 2019, on the file of the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Tirunelveli District, dated 08.09.2022 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

2. The case of the prosecution is that on 25.03.2017, the petitioner, who is the father of the victim girls, in drunken mode, came to the house and had committed sexual harassment on the victim girls and he has also threatened them that not to inform the same to anybody. On the basis of the complaint lodged, FIR came to be registered in Crime No.7 of 2017. The respondent police, after completing the investigation, has laid a final report for the offence under Section 506(i) IPC and Section 8 of POCSO Act (2 counts).

3. During trial, the prosecution has examined 13 witnesses as P.W.1 to P.W.13 and exhibited 27 documents as Ex.P.1 to Ex.P.27. The defence has adduced neither oral nor documentary evidence.

4. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the judgment dated 08.09.2022, finding the accused guilty for the offences under under Section 506(i) IPC and sentenced him to undergo six months rigorous imprisonment and convicting him for the offence under Section 8 of POCSO Act (2 counts) and sentenced him to undergo five years rigorous imprisonment for each count and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for a period of one year for each count. Aggrieved by the judgment of conviction and sentence, the accused has come forward with the present appeal.

5. The learned counsel for the petitioner would submit that the prosecution witnesses are all blood relative witnesses and no independent witness had been examined; that the alleged victim girls are none other than the own daughters of the petitioner and their statements stand not corroborated with medical evidence and other witnesses; that the statements under Section 164 Cr.P.C., recorded from the victim girls at a very belated stage; that the petitioner/appellant was not given sufficient opportunity to defend the case effectively; that P.W.3 to P.W.9 have not supported the case of the prosecution; that there is evidence to the fact that there existed serious misunderstanding and problems between the family members; that the very occurrence alleged by the prosecution are all false and that he has been falsely implicated in the above



6. The learned Government Advocate (Criminal Side) would submit that the victim girls P.W.1 and P.W.2 have deposed about the sexual assault committed by their own father/petitioner herein; that the prosecution had adduced ample evidence to show that the petitioner/accused was a habitual drunker and he used to come to his home in drunken stage and assaulted her daughters sexually; that the victims have clearly deposed that the petitioner/accused had directed them to sleep with him and thereafter, they can marry anyone and that the learned trial Judge, upon considering the entire evidence available on record with proper perspective, has rightly convicted the accused.

7. It is pertinent to note that the petitioner/accused has sexually assaulted his own minor daughters. As rightly contended by the learned Government Advocate (Criminal Side), the points/aspects now canvassed by the petitioner side are matter for consideration in the main appeal.

8. Considering seriousness and gravity of the offence allegedly proved against the petitioner and also taking note of the fact that the petitioner is the father of the victim girls and also the fact that the impugned judgment was passed on 08.09.2022 and the period of incarceration, this Court is not inclined to suspend the sentence at this point of time.

9. In the result, the Criminal Miscellaneous Petition is dismissed.

sd/-

05/07/2023

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

DAS

TO

- 1 THE SESSIONS JUDGE
POCSO SPECIAL COURT,
TIRUNELVELI DISTRICT.
- 2 THE INSPECTOR OF POLICE
ALL WOMAN POLICE STATION, AMBASAMUDRAM,
TIRUNELVELI DISTRICT
- 3 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.



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CRL MP(MD)



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

ORDER

IN

CRL MP (MD) No.8281 of 2023

in

CRL A (MD) No. 442 of 2023

Date :05/07/2023

PKP/ /SAR- /11.07.2023/ **4P/5C**