



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

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

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.5512 of 2023
in
CRL A(MD) No.273 of 2022

MOOKAIYA ... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
KEERANUR ALL WOMEN POLICE STATION,
PUDUKKOTTAI DISTRICT.
CR.NO.22/2022

... 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 S.C.No.58/2022 dt 07.0.2023 on the file of the Learned Sessions Judge Mahila Court Pudukkottai pending disposal of the above Criminal Appeal.

PRAYER in CRL A(MD) No.273 of 2022:

Pleased to admit this appeal on file, to call for the records from the lower Court in Special S.C.No.58/2022 on the file of Sessions Judge Mahila Court, Pudukottai District and set aside the judgment dated 07.03.2023 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.JEYAMOHAN.K, Advocate for the petitioner and of Mr.R.SIVAKUMAR, Government Advocate(Crl.side) on behalf of the Respondent, while admitting the CRL A., the Court made the following order:-

This petition has been filed to suspend the sentence passed in Spl.S.C.No.58 of 2022, dated 07.03.2023, on the file of the learned Sessions Judge, Mahila Court, Pudukkottai District, till the disposal of the Criminal Appeal.

2. The case of the prosecution is that on 27.06.2022 at about 08.00 pm the victim girl had gone to the Bhai provision store in the village, while she was returning to home, the accused had restrained her and told that he wanted to meet her in secret and come alone to



Periyloorani bund, which was near her house, but the victim girl was not gone there. The very next day, the accused restrained the victim girl and asked her why she had not come to the Periyloorani bund yesterday and told her to come to the Periyloorani bund at 07.00 pm and forcibly had given 10 Rupees to her and sexually harassed her. On the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.22 of 2022 on 30.06.2022. The respondent Police after completing the investigation, has filed the final report for the offence under Sections 11(i), 12 of POCSO Act and Section 341 of I.P.C and the same was taken on file in Spl.S.C.No.58 of 2022.

3. During trial, the prosecution has examined 5 witnesses as P.W.1 to P.W.5; exhibited 9 documents as Ex.P.1 to Ex.P.9. The accused has adduced neither oral nor any documentary evidence.

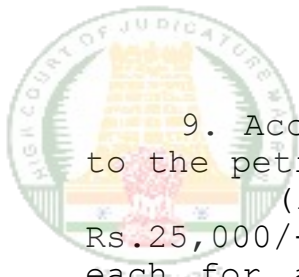
4. The learned Judge, upon considering the evidence adduced and on hearing the arguments of both the sides, has passed the judgment dated 07.03.2023, convicting the petitioner/accused for the offence under Section 11(i) r/w 12 of POCSO Act and sentenced him to undergo 3 years rigorous imprisonment and to pay a fine of Rs.15,000/-, in default, to undergo six months rigorous imprisonment; to undergo one month simple imprisonment and to pay a fine of Rs.500/- in default, to undergo one week simple imprisonment for the offence under Section 341 I.P.C. The Trial Court has suspended the sentence imposed on the petitioner till 06.04.2023. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5. The learned counsel for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner has already paid fine amount.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

7. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

8. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.



9. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Mahila Court, Pudukkottai District;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-

05/04/2023

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/04/2023

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

TO

- 1 THE SESSIONS JUDGE,
MAHILA COURT, PUDUKKOTTAI.
- 2 THE INSPECTOR OF POLICE
KEERANUR ALL WOMEN POLICE STATION,
PUDUKKOTTAI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to M/S.RAJARAJAN M Advocate SR.No.5518

ORDER
IN
CRL MP (MD) No.5512 of 2023
in
CRL A (MD) No.273 of 2022
Date :05/04/2023

SS/CG/SAR III/10/04/2023/3P/5C