



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

Tuesday, the Eleventh day of April Two Thousand and Twenty Three
PRESENT

WEB COPY

The Hon'ble Mr. Justice K. MURALI SHANKAR

CRL MP(MD) No.5733 of 2023
in
CRL A(MD) No.286 of 2023

G. RAMAR

... APPELLANT/SOLE ACCUSED

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
SRIVILLIPUTHUR ALL WOMEN POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.18/2021).

... 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 conviction made in the Judgment in Spl.SC.No.19/2022 on the file of the Learned Special Court for Exclusive Trial of Cases under Protection of Children From the Sexual Offences Act, 2012 Virudhunagar at Srivilliputhur dated 14.03.2023 and enlarge the petitioner on bail.

PRAYER in CRL A(MD) No.286 of 2023:

Pleased to call for records and set aside the Judgment and Conviction dated 14.03.2023, by the Special Court for Exclusive Trial of Cases under Protection of Children from the Sexual Offences Act, 2012 Virudhunagar at Srivilliputhur in Spl.S.C.No.19 of 2022 and acquit the Appellant.

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.RAJABOOPATHY D, 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 Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Virudhunagar at Srivilliputhur, in Spl.S.C.No.19 of 2022, dated 14.03.2023, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the victim girl's father had availed a loan for Rs.50,000/- from one Subbiah and that the petitioner/sole accused asked the victim girl's father to repay the loan amount to his creditor and the victim girl's father failed to do so, for which, on 18.11.2021, the petitioner had sexually



harassed the victim girl stating that since her father has not paid the loan amount, he asked the victim girl for sexual intercourse and on that basis, FIR came to be registered in Crime No.18 of 2021.

3. The respondent police, after completing the investigation, has filed the final report for the offences under Sections 11(iv) r/w 12 of POCSO Act, 2012 and Sections 341, 506(2) and 509 IPC and the case was taken on file in Spl.S.C.No.19 of 2022 and the same was pending on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Virudhunagar at Srivilliputhur.

4. During trial, the prosecution has examined 6 witnesses as P.W.1 to P.W.6 and exhibited 6 documents as Ex.P.1 to Ex.P.6. The accused has adduced neither oral nor documentary evidence.

5. The learned Sessions Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 14.03.2023 finding the petitioner guilty for the offences under Section 12 of POCSO Act, 2012 and Section 506(1) IPC and sentenced him to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 3 months Simple Imprisonment for the offence under Section 12 of POCSO Act, 2012 and to undergo 1 year Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default to undergo 3 months Simple Imprisonment for the offence under Section 506(1) IPC and that the above sentences were ordered to be run concurrently. The Trial Court has already suspended the sentence imposed on the petitioner till 12.04.2023. Challenging the above said conviction and sentence, the accused has preferred the present Criminal Appeal along with the application for suspension of sentence.

6. The learned counsel appearing 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.

7. The learned Government Advocate (Criminal Side) 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.

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

9. The learned counsel appearing 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 trial 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.

10. 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 Special Court for Exclusive Trial of Cases under Protection of Children From The Sexual Offences Act, 2012, Virudhunagar at Srivilliputhur;

(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 daily at 10.30 a.m., until further orders 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/-

11/04/2023

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/04/2023

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

TO

1 THE JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER PROTECTION OF CHILDREN FROM THE SEXUAL
OFFENCES ACT, 2012, VIRUDHUNAGAR AT SRIVILLIPUTHUR.

2 THE INSPECTOR OF POLICE
SRIVILLIPUTHUR ALL WOMEN POLICE STATION,
VIRUDHUNAGAR DISTRICT.

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

+1. C.C. to M/S.RAJABOOPATHY D Advocate SR.No.5691

ORDER

IN

CRL MP(MD) No.5733 of 2023
in

CRL A(MD) No.286 of 2023

Date :11/04/2023