



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

Tuesday, the Eighteenth day of April Two Thousand and Twenty Three

PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.6149 of 2023
IN
CRL A(MD) No.308 of 2023

VINOTH @ VINOTHKUMAR

... PETITIONER/APELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
RAJAPALAYAM,
VIRUDHUNAGAR DISTRICT.
IN CRIME NO.8/2022.

... RESPONDENT/RESPONDENT

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 imposed by the learned Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur in Special Sessions Case No.83/2022 dt.24/3/2023, pending disposal of the Criminal Appeal.

PRAYER IN CRL.A(MD) .308/2023:

Pleased to admit this appeal on file and call for the records from the Lower Court and set aside the Judgment passed by the Learned Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur in Special Sessions Case No.83 of 2022 dated 24.03.2023 by allowing this 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.MAYA PERUMAL S, Advocate for the petitioner and of Mr.R.SIVAKUMAR, Government Advocate(crl.side) on behalf of the Respondent, While admitting the Criminal Appeal, the court made the following order:-

This petition has been filed to suspend the sentence passed in Spl.S.C.No.83 of 2022, dated 24.03.2023, on the file of the learned Sessions Judge, Special Court for POCSO Act Cases, Virudhunagar, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that on 03.05.2022 at about 10.30 pm, the petitioner has trespassed into the house of the victim girl and pulled her hands with an intention to assault her sexually



and when she shouted, her sister woke up and called their names; that when the same was questioned by the victim's parents, the petitioner abused them with filthy language and also threatened them with dire consequences, based on the complaint of the defacto complainant, FIR came to be registered in Crime No.8 of 2022 for the offence under Sections 341, 506(ii) IPC and Section 7 r/w 8 of POCSO Act and that after completing the investigation, final report came to be filed and the same was taken on file in Spl.S.C.No.83 of 2022.

3. During trial, the prosecution has examined 6 witnesses as P.W.1 to P.W.6 and exhibited 12 documents as Ex.P.1 to Ex.P.12. 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 24.03.2023, finding the accused guilty for the offences under Section 451 I.P.C., and Sections 7 r/w 8 of POCSO Act and sentenced him to undergo three years rigorous imprisonment and to pay a fine of Rs.2,000/- in default, to undergo simple imprisonment for a period of three months for the offence under Section 451 IPC; to undergo three years rigorous imprisonment and to pay a fine of Rs.3,000/-, in default, to undergo simple imprisonment for a period of three months and acquitted the petitioner for the offence under Section 506(ii) I.P.C. The Trial Court has suspended the sentence imposed on the petitioner till 21.04.2023. Aggrieved by the conviction judgment, the accused has preferred the present appeal.

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 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.

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, this petition is allowed and the suspension of sentence and bail 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, Special Court for POCSO Act Cases, Virudhunagar;

(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 trial Court once in a month i.e., on the first working day of every English calendar month 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/-

18/04/2023

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/04/2023

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

DAS

TO

1 THE SESSIONS JUDGE,
SPECIAL COURT FOR POCSO ACT CASES,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

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

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

ORDER IN

CRL MP(MD) No.6149 of 2023
IN CRL A(MD) No.308 of 2023
Date :18/04/2023

SA/SSS/SAR.3/20.04.2023/3P/4C