



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

Tuesday, the Fourth day of July Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.8205 of 2023
IN
CRL A(MD) No.437 of 2023

I.IMMANUVEL

... APPELLANT/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
RAJAPALAYAM ALL WOMEN POLICE STATION,
VIRUDHUNAGAR DISTRICT
(CRIME NO.8 OF 2018)

... RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioner on bail by suspend the sentence of imprisonment imposed by the learned Special Court for Exclusive Trial of Cases Under Protection of Children From the Sexual Offences Act 2012 Virudhunagar at Srivilliputhur in Spl.SC.No.32 of 2018 by the Judgmnt dated 18.11.2022 and enlarge the petitioner/Appellant on bail, pending disposal of the above said Criminal Appeal.

PRAYER IN CRL.A(MD).437/2023:

Pleased to call for the records and set aside the Judgment and Conviction dated 18.11.2022, 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.32 of 2018 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.SIVA KUMAR, Government Advocate on behalf of the Respondent, the court made the following order:-

Reserved on : 26.06.2023

Delivered on :04.07.2023

This petition has been filed to suspend the sentence imposed on the petitioner in Spl.S.C.No.32 of 2018, on the file of the Special Court for Exclusive Trial of cases under POCSO Act, Virudhunagar at

<https://www.mhc.tn.gov.in/judis>



Srivilliputhur, dated 18.11.2022 and enlarge the petitioner pending disposal of the Criminal Appeal.

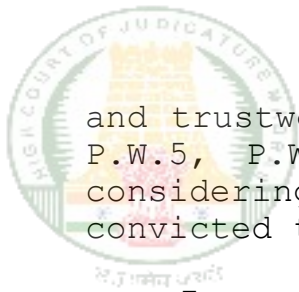
2. The case of the prosecution is that the petitioner, by giving false promise, had sexual intercourse with the victim and thereafter refused to marry her and that the victim was aged 16 years at the time of alleged occurrence. On the basis of the complaint lodged, FIR came to be registered in Crime No.8 of 2018 and the respondent Police, after completing the investigation, has filed a final report for the alleged offence under Sections 294(b), 506(i) of IPC and Section 5(1) r/w Section 6 of POCSO Act and the same was taken on file in Spl.S.C.No.32 of 2018 on the file of the Special Court for Exclusive Trial of cases under POCSO Act, Virudhunagar at Srivilliputhur.

3. During trial, the prosecution has examined 13 witnesses as P.W.1 to P.W.13 and exhibited 11 documents as Ex.P.1 to Ex.P.11. 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 18.11.2023, finding the accused guilty for the offences under Section 506(i) IPC and sentenced him to undergo six months rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo one month simple imprisonment and convicting the accused for the offence under Section 5(1) r/w 6 of POCSO Act and sentenced him to undergo ten years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo one year simple imprisonment. 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 though the incident was allegedly occurred on 01.05.2018 at 07.00 hours, FIR was registered on 02.05.2018 at 10.00 hours; that the prosecution has not offered any reason or explanation for the delay in lodging the complaint and the delay in sending the FIR to the Court; that P.W.1, P.W.3 and P.W.6 close relative of the victim girl are only hearsay witnesses; that P.W.7/Doctor has clearly deposed that there are no internal and external injuries; that the prosecution has failed to prove the correct place of occurrence and there is contradiction with regard to the scene of occurrence between the observation mahazar, FIR and the evidence of prosecution witnesses and that the learned trial Judge, without considering the above material aspects, has mechanically recorded the conviction.

6. The learned Government Advocate (Criminal Side) would submit that the grounds raised by the petitioner are vague and unsustainable; that the prosecution has proved its case beyond reasonable doubts; that the evidence of the victim girl in respect of the offence committed by the accused is quite natural, reliable



and trustworthy and the same stands corroborated by the evidence of P.W.5, P.W.6 and P.W.8 and that the learned trial Judge, upon considering the entire evidence available on record, has rightly convicted the petitioner/accused.

7. It is pertinent to note that the learned trial Judge, considering the evidence available on record, has come to a decision that the victim girl has not completed 16 years of age at the time of alleged occurrence. 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 age of the victim and also the fact that the impugned judgment was passed on 18.11.2022 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/-

04/07/2023

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

DAS

TO

- 1 THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER
PROTECTION OF CHILDREN FROM THE SEXUAL OFFENCES ACT, 2012,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE
RAJAPALAYAM ALL WOMEN POLICE STATION,
VIRUDHUNAGAR DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL MP(MD) No.8205 of 2023
IN

CRL A(MD) No.437 of 2023

Date : 04/07/2023

SA/VR/SAR. /12.07.2023/3P/5C

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