



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

Wednesday, the Twenty Sixth day of April Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.6826 of 2023

in

CRL A(MD) No.350 of 2023

N.MUTHUMURUGAN

... Petitioner / Appellant

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
SRIVILLIPUTTUR,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.20 OF 2021.)

... 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 sentence against the appellant in Spl SC No.37/2022 on the file of Special Court for Exclusive Trail of Cases under Pocso Act 2012, Virudhunagar District at Srivilliputtur dated 10.04.2023 and enlarge the petitioner/appellant on bail, till the disposal of the main Criminal Appeal.

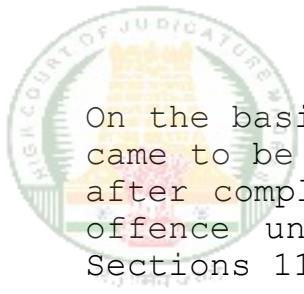
Prayer in CRL A(MD). 350/ 2023 :

To call for the records from the trail Court namely Special Court for Exclusive Trail of cases under POCSO Act 2012, Virudhunagar District at Srivilliputhur, in Spl.S.C.No.37 of 2022, dated 10.04.2023 and to set aside the judgment of the trail Court by acquitting the petitioner.

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.VIJAYARATHINAM.M, Advocate for the petitioner and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor, on behalf of the Respondent, while admitting the Criminal Appeal the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in Spl.S.C.No.37 of 2022, dated 10.04.2023, on the file of the Special Court for Exclusive Trial of Cases under POCSO Act 2012, Virudhunagar District at Srivilliputtur, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that on 06.11.2021, the petitioner, who is the father of the victim girl, in drunken mode, came to the house and had committed sexual harassment on the victim girl, who is a minor and he has also threatened that his wife and children will be burnt alive, if they disclosed the same to anybody.



On the basis of the complaint lodged by the defacto complainant, the case came to be registered in Crime No.20 of 2021. The respondent police, after completing the investigation, has laid a final report for the offence under Sections 294(b), 354, 509, 354 A, 506(i) IPC and Sections 11(1), 11(2), 18 and 12 of POCSO Act.

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3. During the trial, the prosecution has examined 8 witnesses as P.W.1 to P.W.8 and exhibited 7 documents as Ex.P.1 to Ex.P.7, whereas, the accused has adduced neither oral nor documentary evidence.

4. The learned Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, has passed the impugned judgment dated 10.04.2023, acquitting the accused for the offence under Sections 294(b), 506(i) IPC and Section 3 r/w 18 of POCSO Act and convicting the petitioner/accused for the offence under Section 12 of POCSO Act and sentenced him to undergo two years Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo three months simple Imprisonment. The Trial Court has suspended the sentence imposed on the petitioner till 09.05.2023. 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:-

<https://www.mhc.tn.gov.in/judis> (i) The petitioner shall execute a bond for a sum of



Rs.25,000/- (Rupees Twenty Five Thousand only) with sureties each for a like sum to the satisfaction of the Special Court for Exclusive Trial of Cases under POCSO Act 2012, Virudhunagar District at Srivilliputtur;

(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 am for a period of one month and thereafter, 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/-
26/04/2023

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/04/2023

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

DAS

To

1.The Judge,
Special Court for Exclusive Trail of Cases under POCSO Act,
Virudhunagar Distriat at Srivilliputhur.

2.The Inspector of Police,
All Women Police Station,
Srivilliputhur,
Virudhunagar District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
CRL MP(MD) No.6826 of 2023
in
CRL A(MD) No.350 of 2023
Date :26/04/2023