



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

Thursday, the Twenty Seventh day of April Two Thousand and
Twenty Three

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

Crl.M.P(MD)No.6870 of 2023
in
Crl.A. (MD)No.353 of 2023

MUNIAPPAN @ AYYAR

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
VANNIYAMPATTI VILAKKU POLICE STATATION,
VIRUDHUNAGAR DISTRICT.
(IN CRIME NO.127/2022).

... 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 sentence imposed by the Special Court (POCSO Act Cases), Virudhunagar District at Srivilliputhur in Special SC.No.124/2022 on 24/3/2023 pending disposal of the Crl.A.

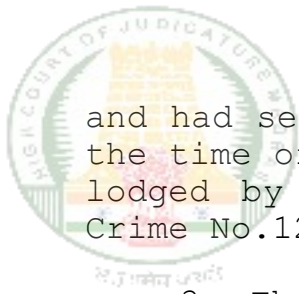
PRAYER IN Crl.A. (MD)No.353 of 2023:

To call for the records and set aside the conviction and sentence imposed by the Special Court(Protection of Children from Sexual Offences Act Cases), Virudhunagar District at Srivilliputtur in Special S.C.No.124 of 2022 on 24.03.2023 and allow this Criminal 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.JOTHI BASU M, Advocate for the petitioner and of M/S.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 Protection of Children from Sexual Offences Act Cases, Virudhunagar District @ Srivilliputhur, in Spl.S.C.No.124 of 2022, dated 24.03.2023, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that on 03.07.2022, the
<https://www.mca.gov.in/> sole accused had tried to touch the victim girl's cheek



and had sexually tortured the victim girl, who was aged 17 at the time of the alleged occurrence and on the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.127 of 2022.

3. The respondent police, after completing the investigation, has filed the final report for the offences under Section 448 IPC and Sections 11(iv) r/w 12 of POCSO Act, 2012 and the case was taken on file in Spl.S.C.No.124 of 2022 and the same was pending on the file of the learned Sessions Judge, Special Court for Protection of Children from Sexual Offences Act Cases, Virudhunagar District @ Srivilliputhur.

4. During trial, the prosecution has examined 5 witnesses as P.W.1 to P.W.5 and exhibited 7 documents as Ex.P.1 to Ex.P.7. The accused has adduced neither oral nor documentary evidence.

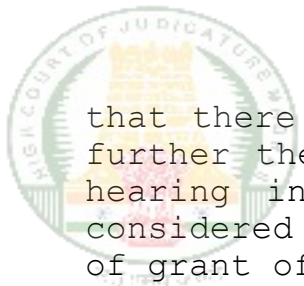
5. The learned Sessions Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 24.03.2023 finding the petitioner guilty for the offences under Section 448 IPC and Section 12 of POCSO Act and sentenced him to undergo 1 months Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 3 months Simple Imprisonment for the offence under Section 448 IPC and 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 and that the above sentences were ordered to be run concurrently. The Trial Court has already suspended the sentence imposed on the petitioner till 24.04.2023. Challenging the above said conviction and sentence, the accused has preferred the present Criminal Appeal along with the above 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 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.

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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 (Protection of Children from Sexual Offences Act Cases), 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 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/-

27/04/2023

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28/04/2023

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

CSM

TO

1.THE JUDGE, SPECIAL COURT (PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT CASES),
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR.

2.THE INSPECTOR OF POLICE
VANNIYAMPATTI VILAKKU POLICE STATATION,
VIRUDHUNAGAR DISTRICT.



Crl.M.P(MD)



23

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

+1 CC to M/s.JOTHI BASU.M, Advocate (SR-6842[I] dated 28/04/2023)

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ORDER

IN

CRL MP (MD) No.6870 of 2023

Date :27/04/2023

RK/SSS/SAR- (28/04/2023) 4P/5C