



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

Thursday, the First day of June Two Thousand and Twenty Three

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.7353 of 2023
in
CRL A(MD)No.380 of 2023

KULANTHAIVELU @ ANAND

... PETITIONER/APPELLANT

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, SATTUR,
VIRUDHUNAGAR DISTRICT.
CRIME NO. 3 OF 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. 108 of 2022 dated 12.04.2023 pending disposal of the Criminal Appeal.

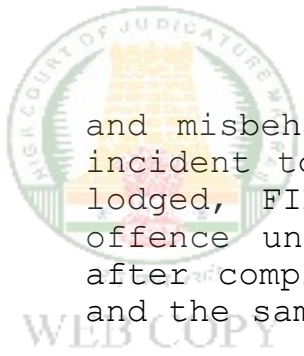
Prayer in CRL A(MD). 380/ 2023 :

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.108 of 2022 dated 12.04.2023 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 CRL A., the Court made the following order:-

This petition has been filed to suspend the sentence imposed in Spl.S.C.No.108 of 2022, dated 12.04.2023, on the file of the Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that on 15.04.2022 at about 14.00 hours, when the victim girl was taking water from borewell pump near the house of one Seeniyammal, the petitioner came there



and misbehaved with her; that the victim girl informed about the incident to her grandmother and that on the basis of the complaint lodged, FIR came to be registered in Crime No.3 of 2022 for the offence under Sections 11(1) r/w 12 of POCSO Act, 2012 and that after completing the investigation, final report came to be filed and the same was taken on file in Spl.S.C.No.108 of 2022

3. During trial, the prosecution has examined 7 witnesses as P.W.1 to P.W.7 ; exhibited 8 documents as Ex.P.1 to Ex.P.8. 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 12.04.2023, convicting the petitioner/accused under Section 12 of POCSO Act and sentenced him to undergo 3 years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, rigorous imprisonment for a period of three months. 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.

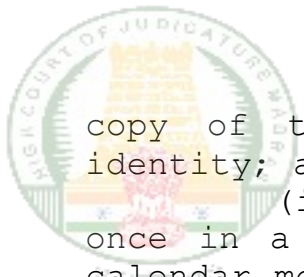
8. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be 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, 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 POCSO Act cases, Virudhunagar District at Srivilliputhur ;

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

(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/-

01/06/2023

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

DAS

TO

- 1 THE JUDGE, SPECIAL COURT FOR
POCSO ACT CASES,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, SATTUR,
VIRUDHUNAGAR DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL MP (MD) No.7353 of 2023
in

CRL A (MD) No.380 of 2023

Date :01/06/2023

SS/CG/06/06/2023/3P/4C