



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

Wednesday, the Twenty Eighth day of June Two Thousand and
Twenty Three

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.9208 of 2023
IN
CRL A(MD) No.485 of 2023

SELVARAJ

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
RAJAPALAYAM,
VIRUDHUNAGAR DISTRICT.
CR.NO.7/2022

... RESPONDENT/RESPONDENT

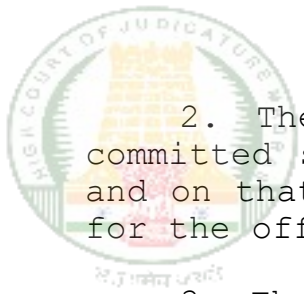
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Sentence imposed on the petitioner vide judgment in Special S.C.No.105/2022 dt 31.05.2023 on the file of the Learned Sessions Judge, Special Court for Exclusive Trial of POCSO Act Cases, Srivilliputhur, Virudhunagar District and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

PRAYER IN CRL.A(MD).485/2023:

Pleased to call for the records relating to judgment of conviction dated 31.05.2023 made in Special Sessions Case No.105 of 2022 on the file of the Learned Special Court for Exclusive Trial of POCSO Act Cases, Srivilliputhur, Virudhunagar District and set aside the same and allow this Criminal Appeal by acquitting 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.ANTONY ARUL RAJ T, Advocate for the petitioner and of Mr.SS.MADHAVAN, Government Advocate(crl.side) on behalf of the Respondent, 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 Exclusive Trial of POCSO Act Cases, Virudhunagar District @ Srivilliputhur, in Spl.S.C.No.105 of 2022, dated 31.05.2023, till the disposal of this Criminal Appeal.



2. The case of the prosecution is that the petitioner had committed sexual torture to the victim girl, who is aged 13 years and on that basis, FIR came to be registered in Crime No.07 of 2022 for the offences under Sections 11(4) r/w 12 of POCSO Act.

3. The respondent police, after completing the investigation, has filed the final report and the case was taken on file in Spl.S.C.No.105 of 2022 and the same was pending on the file of the Special Court for Exclusive Trial of POCSO Act Cases, Virudhunagar District @ Srivilliputhur.

4. During trial, the prosecution has examined 7 witnesses as P.W.1 to P.W.7 and exhibited 9 documents as Ex.P.1 to Ex.P.9. The defence has exhibited 2 documents Ex.D.1 and Ex.D.2.

5. The learned Special Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 31.05.2023 convicting the petitioner for the offence under Section 12 of POCSO Act and sentenced him to undergo 1 year Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo 3 months Simple Imprisonment. The Trial Court has suspended the sentence imposed on the petitioner till 30.06.2023. 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 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.



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 learned Sessions Judge, Special Court for Exclusive Trial of POCSO Act Cases, Srivilliputhur, Virudhunagar District;

(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/-

28/06/2023

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/06/2023

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

CSM

TO

1 THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF POCSO
ACT CASES, SRIVILLIPUTHUR, VIRUDHUNAGAR DISTRICT.

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

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

+1. C.C. to M/S.ANTONY ARUL RAJ T Advocate SR.No.9797 (I)
Dt.28/06/2023

ORDER IN

CRL MP(MD) No.9208 of 2023
IN CRL A(MD) No.485 of 2023
Date :28/06/2023

SA/VR/SAR. /28.06.2023/3P/5C
<https://www.mhc.tn.gov.in/judis>