



CRL.M.P.(MD)No.9851 of 2023

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

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

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL.M.P.(MD)No.9851 of 2023

in

CRL.A.(MD)No.514 of 2023

M.KUMAR

... PETITIONER/ APPELLANT/ ACCUSED

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
PULIYARAI POLICE STATION,
TIRUNELVELI DISTRICT.
CRIME NO.168 OF 2018.

... RESPONDENT/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 passed by the Learned Special Court for Exclusive Trial of Cases Under POCSO Act,Tirunelveli,Tirunelveli District in Spl.C.No.149 of 2019 through a Judgment dated.22.06.2023.

Prayer in Crl A(MD)No. 514 of 2023:

Pleased to admit this appeal on file and call for records from the Lower Court

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



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namely Special court for Exclusive Trial of Cases Under POCSO Act, Tirunelveli, Tirunelveli District in SPL.C.No. 149/2019 and to set aside the judgment dated 22.06.2023 passed by the above Lower Court and thereby Acquit the above Accused from the charges.

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.RAAMAKRISHNAN KA, Advocate for the petitioner and of MR.R.SIVAKUMAR, Government Advocate (Criminal Side) on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent.

2. I have perused the petitioner's affidavit filed in support of the above petition, judgment of the trial Court and the memorandum of the appeal.

3. The petitioner has been convicted by the learned Trial Judge for the offence under Section 8 of the Protection of Children from Sexual Offences Act, 2012 in Spl.S.C.No.149 of 2019 by the Special Court for Exclusive Trial of Cases under POCSO Act, Tirunelveli, Tirunelveli District to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.5,000/- in default to undergo 6 months Simple Imprisonment.



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4. The learned counsel for the petitioner submitted that in the 164 Cr.P.C., statement of victim girl has not clearly disclosed the place and time of occurrence. There is a material contradiction in the time of occurrence. The learned counsel further submit that there are very many legal infirmities in the conviction recorded by the Trial Court and they are required to be assessed. Further, the There is prima facie case in favour of the appellant.

5.The learned Government Advocate (Crl. side) appearing for the respondent would contend that the Trial Court has rightly convicted the appellant on the basis of the evidence and the appellant has no prima facie case in this appeal.

6. This Court considered the submission of both parties and perused the records.

7. There is some material discrepancies regarding the time of occurrence and the prosecution is not clear in respect of the place of occurrence and hence, this court prima facie satisfied that the submission of the learned counsel have substance. Further, the petitioner has already paid the fine and the learned trial Judge also suspended the sentence of imprisonment and considering the several infirmities in the prosecution case brought to the knowledge of this Court and there are arguable points involved in the appeal and further that the appeal is not likely to be taken up



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for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence and accordingly this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal with the following conditions:-

(i) The petitioner shall execute a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties for the likesum each to the satisfaction of the learned the Special Court for Exclusive Trial of Cases under POCSO Act, Tirunelveli, Tirunelveli District.

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the concerned officer may obtain a copy of their Aadhar or Bank Pass Book to ensure their identity.

(iii) The petitioner shall appear before the Court concerned on the first working day of every English Calender month at 10.30 a.m., until further orders.

sd/-
11/07/2023

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/07/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

- 1 THE JUDGE
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, TIRUNELVELI,
TIRUNELVELI DISTRICT.
- 2 THE INSPECTOR OF POLICE
PULIYARAI POLICE STATION,
TIRUNELVELI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO
THE SECTION OFFICER,(CALL FOR RECORDS IN SPL.C.No. 149/2019)
CRIMINAL RECORDS
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.K.A.RAMAKRISHNAN, Advocate (SR-10687[I] dated 13/07/2023)

ORDER
IN
CRL.M.P.(MD)No.9851 of 2023
in
CRL.A.(MD)No.514 of 2023
Date :11/07/2023

Madurai Bench of Madras High Court is issuing certified
copies in this format from 17/07/2023

PKP/MMS/SAR- /21.07.2023/ 5P/ 6C
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