



CRL MP(MD) No.11522 of 2023

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

Friday, the Eighteenth day of August Two Thousand and Twenty Three

PRESENT

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

CRL MP(MD) No.11522 of 2023

and

CRL A(MD) No.710 of 2023

SAMINATHAN @ RAMU

... Appellant / Accused No.1

Vs

STATE THROUGH
THE INSPECTOR OF POLICE
NATHAM POLICE STATION,
DINDIGUL DISTRICT,
(CRIME NO.204/2021)

... Respondent / Complainant

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 against the petitioner in Special Court(POCSO Act cases), Dindigul in Spl.SC.No.106/2023 dated 06.07.2023 and enlarge him on bail pending disposal of above criminal appeal.

Prayer in CRL A(MD). 710/ 2023 :

To call for the records relating to the judgment in Spl.S.C.No.106 of 2023 dated 06.07.2023 on the file of the Special Court (POCSO Act Cases), Dindigul and set aside the same and allow this Criminal Appeal.

Order : This criminal miscellaneous petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.SUSI KUMAR.C, Advocate for the petitioner and of Mr.R.SIVAKUMAR, Government Advocate (Crl. side) on behalf of the Respondent, while admitting the



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criminal appeal, the court made the following order:-

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This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in Spl.S.C.No.106 of 2023, dated 06.07.2023, on the file of the Special Court (POCSO Act Cases), Dindigul, and enlarge the petitioner on bail till the disposal of this Criminal Appeal.

2. According to the prosecution, at the time of occurrence, the victim girl was a minor and her date of birth is 06.04.2008. On 31.03.2021, at about 06.00 p.m, when the victim girl along with her maternal uncle's daughter were proceeding towards their home from the Tamarind Grove, the petitioner said to have committed the sexual assault upon the victim girl. The specific allegation against the petitioner in the FIR is that he said to have pulled the hands of the victim girl and slapped her face and caused injuries to her. So, P.W.1, father of the victim girl lodged a complaint before the respondent police.

3. On receipt of the complaint, the respondent police registered the FIR in Crime No.204 of 2021 for the offences under Sections 294(b), 323, 324, 506(2) of IPC and Section 7 r/w 8 of POCSO Act, 2012.

4. The respondent police, after completing the investigation, has laid a final report for the offences under Sections 294(b), 325, 506(2) of IPC and Sections 7 & 8 of POCSO Act, 2012 before the Special Court (POCSO Act Cases), Dindigul. The



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learned Special Judge has taken the case on file in Spl.S.C.No.106 of 2023 and thereafter, conducted trial as per procedure stated in code of Criminal Procedure.

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5. During the trial, the prosecution has examined 11 witnesses as P.W.1 to P.W.11 and exhibited 20 documents as Ex.P.1 to Ex.P.20 and marked 1 Material Objects as P.M.O.1, whereas, the accused has adduced neither oral nor documentary evidence.

6. The learned Special Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, acquitted the petitioner from the charge under Sections 294(b), 325, 506(2) of IPC and convicted him for the offence under Section 7 r/w 8 of POCSO Act, 2012 and sentenced him to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.2,000/- in default, to undergo 3 months Simple Imprisonment. 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.

7. The learned counsel for the petitioner would submit that there is some civil dispute between P.W.1 family and the petitioner relating to the Tamarind Grove. So, the defacto complainant lodged the said complaint with a motive. Even as per the allegation, the offence under Section 7 r/w 8 of the POCSO Act is not made out. Further, there is a delay in registering the FIR. He would further submit that a



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number of contradictions between the evidences regarding the alleged occurrence.

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Even the allegation alleged against the petitioner is that he only slapped the victim girl on her face and pulled her hands. In the said circumstance, the offence is not made out against the petitioner. Hence, he seeks to grant of suspension of sentence to the petitioner.

8. The learned Government Advocate (Crl.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.

9. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

10. This Court finds force in the submission of the learned counsel for the petitioner. According to the prosecution evidence, the petitioner said to have slapped on her face and pulled her hands. So, there is arguable points either the said allegation constituted offence under Section POCSO Act or any other offence under Section Indian Penal Code. Apart from that, certain infirmities and inconsistencies in this case and also certain contradictions in material particulars brought to the knowledge of this Court and hence, this Court prima facie feels that 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, this Court is of the



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considered view that the petitioner herein is entitled to the relief of grant of
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suspension of sentence.

11. 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 (POCSO Act Cases), Dindigul;

(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 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.

sd/-
18/08/2023

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18/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS



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To

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1.The Sessions Judge,
Special Court (POCSO Act Cases), Dindigul.

2.The Inspector of Police,
Natham Police Station,
Dindigul District.

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

+1 CC to M/s.C.SUSIKUMAR, Advocate (SR-12444[I] dated 18/08/2023)

ORDER

IN

CRL MP(MD) No.11522 of 2023

and

CRL A(MD) No.710 of 2023

Date :18/08/2023

ED/ /SAR- (18/08/2023) 6P / 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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