



CRL MP(MD) No.11854 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.11854 of 2023

and

CRL A(MD) No.733 of 2023

KARNAN

... Petitioner / Appellant

Vs

STATE REP BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PALANI,
DINDIGUL DISTRICT.
(CRIME NO.12 OF 2020.)

... Respondent / Respondent

Criminal Miscellaneous 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 in Spl.SC.No.37 of 2020 by judgment dt.1.3.2023 on the file of the Learned Sessions Judge(Fast Track Mahila Court),Dindigul and enlarge the Petitioner on bail pending disposal of the above Criminal Appeal.

Prayer in CRL A(MD) No.733 of 2023:

To call for the records and to set aside the conviction and sentence imposed by the trial Court by its judgment dated 01.03.2023 in Sp.S.C.No.37 of 2020 on the file of the Learned Sessions Judge, (Fast Track Mahila Court), Dindigul, and allow this criminal appeal and acquit the appellant.

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

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of M/S.AJU TAGORE P, Advocate for the petitioner and of Mr.R.SIVAKUMAR, Government Advocate (Crl. side) on behalf of the Respondent, while admitting the criminal appeal, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in Spl.S.C.No.37 of 2020, dated 01.03.2023, on the file of the learned Sessions Judge (Fast Track Mahila Court) 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 19.06.2008. On 15.07.2020, at about 09.00 p.m, the petitioner had committed the sexual assault upon the victim girl by pinching the left side chest of the victim girl. So, P.W.1, the mother 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.12 of 2020 for the offences under Sections 506(1) 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 506(1) of IPC and Section 7 r/w 8 of POCSO Act, 2012, before the learned Sessions Judge (Fast Track Mahila Court) Dindigul,. The learned Special Judge has taken the case on file in Spl.S.C.No.37 of 2020 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 13 witnesses as P.W.1 to P.W.13 and exhibited 13 documents as Ex.P.1 to Ex.P.13, 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 Section 506(1) of IPC and convicted him for the offence under Section 7 r/w 8 of POCSO Act, 2012, and sentenced him to undergo 4 years Rigorous Imprisonment and to pay a fine of Rs.10,000/- in default, to undergo 6 months 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 money dispute between P.W.1 family and the petitioner. So, the defacto complainant lodged the said complaint with motive. He would further submit that the allegation against the petitioner that he pinched the left side chest of the victim girl is not correct and the petitioner is in custody from 01.03.2023 onwards. Hence, he seeks 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



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petitioner and hence, he strongly opposed to grant suspension of sentence.

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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. Further, the victim girl also admitted the fact in her evidence that her mother lodged a complaint due to the motive existed between them prior to the occurrence. In addition to that, the petitioner is also in custody from 01.03.2023. 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 considered view that the petitioner herein is entitled to the relief of grant of 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 Sessions Judge (Fast Track Mahila Court)

Dindigul;



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

DSS

To

1.The Sessions Judge,
(Fast Track Mahila Court),
Dindigul.

2.The Inspector of Police,
All Women Police Station,
Palani, Dindigul District.

3.The Superintendent,
Central Prison, Madurai.

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



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+1 CC to M/s.P.AJUTAGORE, Advocate (SR-12433[I] dated 18/08/2023)

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ORDER
IN
CRL MP(MD) No.11854 of 2023
and
CRL A(MD) No.733 of 2023
Date :18/08/2023

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

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