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

Tuesday, the Twelfth day of September Two Thousand and Twenty Three

PRESENT

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

CRL MP(MD) No.13162 of 2023
in
CRL A(MD)No.85 of 2023

NATRAYAN

... PETITIONER/ APPELLANT/ SOLE ACCUSED

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
ARAVAKURICHI POLICE STATION,
KARUR DISTRICT.

CRIME NO.624 OF 2020. ... RESPONDENT/RESPONDENT/COMPLAINANT

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 pronounced against the Petitioner in the judgment in Spl.SC.No.13 of 2020 dt.8.10.2021 on the file of the Learned Additional Sessions Judge, FTC Mahila Court, Karur.

PRAYER in CRL A(MD)No.85 of 2023:

To call for the records and set aside the judgment of the trial Court in Spl.S.C.No.13 of 2020 dated 08.10.2021 on the file of the Additional Sessions Judge (Fast Track Mahila Court), Karur 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.SURESHKUMAR M.S., Advocate for the petitioner and of Mr.R.SIVAKUMAR, Government Advocate(Crl.side) on behalf of the Respondent, the Court made the following order:-



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This petition has been filed to suspend the sentence imposed on the petitioner by the learned Additional Sessions Judge, Fast Track Mahila Court, Karur, in Spl.S.C.No.13 of 2020, dated 08.10.2021, till the disposal of the appeal.

2. It is the case of the prosecution that on 30.09.2020, at about 04.00 p.m., while the victim girl aged about 8 years was playing near Pillaiyar Temple at Pappanaickanpatti, the accused took her to his house, by stating that he would give chocolates and money to her and made her to lay on the floor, pulled her bottom wear up to her knee, removed his dress and pressed his penis over her vagina, until the mother of the child and other witnesses reached the spot, thereby, the accused appears to have committed offence of aggravated penetrative sexual assault.

3. On the basis of the complaint lodged by P.W.1/mother of the victim, a case came to be registered in Crime No.624 of 2020 for the offence punishable under Sections 5(m) and 6 of the POCSO Act 2012 Act and also under Section 3(2) (v) of SC/ST Prevention of Atrocities Act, 1989.

4. The respondent police, after completing the investigation, has laid a final report for the offences under Sections 5(m) and 6 of the POCSO Act 2012 and also under Section 3(2) (v) of SC/ST Prevention of Atrocities Act, 1989. The same was taken on file in Spl.S.C.No.13 of 2020, on the file of the Additional Sessions Court, Karur.



5. During trial, the prosecution has examined 22 witnesses as P.W.1 to P.W.22 and exhibited 30 documents as Ex.P.1 to Ex.P.30 and marked 4 Material Objects as M.O.1 to M.O.4. However, neither a witness was examined nor a document was exhibited on the side of the accused.

6. The petitioner has been convicted by the learned Trial Judge for the offence under Section 6 of POCSO Act 2012 Act, in Spl.Case.No.13 of 2020 dated 08.10.2021 by the learned Additional Sessions Judge, (Fast Track Court), Karur, and sentenced him to undergo 20 years rigorous imprisonment and to pay a fine of Rs.50,000/- in default to undergo one year Simple Imprisonment. The petitioner is acquitted from the charge of SC/ST Prevention of Atrocities Act, 1989.

7. The learned counsel for the petitioner submitted that the petitioner is aged about 72 years. Further he would submit that as per the evidence of the victim girls and the prosecution witness, there is a strong enmity relating to path way between the petitioner and the family of the victim girl. From the evidence of the victim girl, it is clear that she was tutored by the police official and her parents, the same was not clarified by the prosecution in the re-examination. He would further submit that the petitioner was arrested and he is in custody from 03.10.2020. Hence, he seeks suspension of sentence.

8. The learned Government Advocate (Crl.side) appearing for the respondent



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would contend that the Trial Court has rightly convicted the petitioner on the basis of the evidence and the petitioner has no *prima facie* case in this appeal.

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

7. According to the petitioner, due to strong enmity between the petitioner and the victim girls family, the petitioner was falsely implicated in this case. Considering the facts and circumstances of the case, the petitioner is aged about 72 years and also considering the submissions of the learned counsel for the petitioner that P.W.2 has deposed that she has been tutored by the police to depose before the Court. There are arguable points involved in the appeal and the 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 in custody from 03.10.2020, in Central Prison Trichy, hence, the petitioner is entitled to the relief of grant of suspension of sentence.

8. 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 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 Additional Sessions Judge, FTC Mahila Court, Karur.



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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/-
12/09/2023

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12/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SBN

TO

- 1 THE ADDITIONAL SESSIONS JUDGE,
FTC MAHILA COURT, KARUR.
- 2 THE INSPECTOR OF POLICE
ARAVAKURICHI POLICE STATION,
KARUR DISTRICT.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



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+1 CC to M/s.M.S.SURESH KUMAR, Advocate (SR-13495[I] dated 12/09/2023)

ORDER
IN
CRL MP(MD) No.13162 of 2023
in
CRL A(MD)No.85 of 2023
Date :12/09/2023

SS/12/09/2023/6P/6C

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