



Crl.M.P(MD)No.14163 of 2023

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

Thursday, the Fourteenth day of December Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

Crl.M.P(MD)No.14163 of 2023
in Crl.A.(MD)No.912 of 2023

RAVISELVAN

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
KEERANUR POLICE STATION,
DINDIGUL DISTRICT.
(CRIME NO.811/2020).

... 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 suspending the sentence imposed upon the petitioner by the Special Court (POCSO Act Cases), Dindigul made in Spl.SC.No.33/2023 dated 15/8/2023 pending disposal of the Criminal Appeal.

Prayer in Crl.A.(MD)No.912 of 2023:

To call for the records and set aside the conviction and sentence passed by the Special Court (POCSO Act Cases), Dindigul in Spl.S.C.No.33 of 2023 dated 15.08.2023.

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.LENIN KUMAR T, Advocate for the petitioner and of MR.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent, while admitting the Criminal Appeal on 30.11.2023, the court made the following order:-



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Crl.M.P(MD)No.14163 of 2023

Reserved on : 30.11.2023

Delivered on : 14.12.2023

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Special Court (POCSO Act Cases), Dindigul made in Spl.S.C.No.33 of 2023, dated 15.08.2023, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the petitioner kidnapped the defacto complainant's daughter and also sexually assaulted her/victim girl and that on the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.811 of 2013.

3. The respondent police, after completing the investigation, has filed the final report for the offences under Sections 363 of Indian Penal Code and Section 5(1) and 6 of POCSO Act, 2012 and the case was taken on file as Spl.S.C.No.33 of 2023 on the file of the Special Court (POCSO Act Cases), Dindigul.

4. During trial, the prosecution has examined 14 witnesses as P.W.1 to P.W.14,



Crl.M.P(MD)No.14163 of 2023

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exhibited 19 documents as Ex.P.1 to Ex.P.19 and no material object was marked. On the side of the defence no witnesses was examined and no documents was marked.

5.The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the impugned judgment dated 15.08.2023 convicting the petitioner for the offences under Sections 363 of IPC and sentenced him to under go simple imprisonment for a period of one year and to pay a fine of Rs.1,000/-, in default, to undergo three months Simple Imprisonment and for the offence under Section 5(1) r/w 6 of POCSO Act, 2012 he was sentenced to undergo 20 years Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo three months Simple Imprisonment and that the above sentences were ordered to be run concurrently. Aggrieved by the said judgment of conviction and sentence, the accused has come forward with the present Criminal Appeal along with the above application for suspension of sentence.

6. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl loved each other and on her own violation, the victim girl eloped with the petitioner. He further submitted that there was no sexual assault and as per the doctor report, there was no injury on her private part. He further



Crl.M.P(MD)No.14163 of 2023

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submitted that the evidence of P.W.1 is completely contrary to the contents of the FIR and the same was not properly considered by the trial Court. This petition has been filed mainly on the ground that the petitioner is in judicial custody from 15.08.2023.

7. The learned Additional Public Prosecutor appearing for the respondent would submit that the victim girl has not completed 18 years of age, that the victim girl has given statement under Section 164 Cr.P.C. implicating the involvement of the petitioner and that the victim girl in her evidence before the trial Court has reiterated that the petitioner committed penetrative sexual assault. He would further submit that the petitioner kidnapped the victim girl, that since the victim girl was a child, the question of taking her with her consent does not arise and that even according to the petitioner, he had taken the victim girl to Palani, and stayed in his brother house.

8. Considering the facts and the circumstances of this case and also the judgment was passed only on 15.08.2023 considering the gravity of offence allegedly proved against the petitioner and the punishment awarded, this Court is of view that this petitioner is not entitled for suspension of sentence at this stage.



Crl.M.P(MD)No.14163 of 2023

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9. In the result, this Criminal Miscellaneous Petition is dismissed.

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14/12/2023

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

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TO

1. THE JUDGE, SPECIAL COURT (POCSO ACT CASES), DINDIGUL
2. THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.
3. THE INSPECTOR OF POLICE
KEERANUR POLICE STATION,
DINDIGUL DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN

Crl.M.P(MD)No.14163 of 2023
in Crl.A.(MD)No.912 of 2023
Date :14/12/2023

RK/DD(21/12/2023) 5P / 5C
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