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CRL MP(MD) N



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

Wednesday, the Twenty Fifth day of January Two Thousand and Twenty
Three

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.14249 of 2022

IN

CRL A(MD) No.788 of 2022

SINGARAJA

... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

State Rep.by
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
NILAKOTTAI, DINDIGUL DISTRICT.
(IN CRIME NO.08/2020)

... RESPONDENT/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 in Judgment dt.28.10.2022 made in Spl SC No.91/2020 on the file of the Learned Fast Track Mahila Court, Dindigul and enlarge the petitioner on bail pending disposal of the instant Criminal Appeal.

Prayer in CRL A(MD).788 of 2022 :

To call for the judgment and set aside the order dated 28.10.2022 passed by the Learned Fast Track Mahila Court, Dindigul in Special Sessions Case No.91 of 2020 and to acquit the Appellant by allowing the above appeal.

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.AZAGARSAMI A K, Advocate for the petitioner and of MR.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Sessions Judge, Fast Track Mahila Court, Dindigul, dated 28.10.2022, in Spl.S.C.No.91 of 2020 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.

2.The learned counsel for the petitioner submitted that the petitioner, who is the sole accused in this case, has been found guilty and convicted by the learned Sessions judge, for the offence under Section 447 of IPC and sentenced him to undergo three months rigorous imprisonment and imposed fine of Rs.500/- in default to undergo one week simple imprisonment and for the offences under Section 8 of Prevention of Children from Sexual Offences Act,



2012 and sentenced to undergo 4 years rigorous imprisonment to pay a fine of Rs.10,000/- in default to undergo 3 months simple imprisonment. The sentences were ordered to run concurrently.

3.The case of the prosecution in brief:

On the date of occurrence the victim was a minor, who have not completed the age of 18 years. On 02.09.2020 at about 05.30 p.m., when she was collecting flowers from the garden, the accused came there by grabbing her hands and trying to commit sexual assault. The victim girl raised alarm. On seeing her cry, neighbours gathered and the petitioner escaped from the place of occurrence. On the basis of the above said occurrence, complaint was lodged and FIR in Crime No.08 of 2020 has been registered. After completing the formalities of the investigation, final report was filed charging the accused for the offence punishable under Sections 447 of IPC and Section 7 r/w 8 of POCSO Act, 2012. Before the trial Court on behalf of the prosecution 10 witnesses have been examined and 7 documents were marked. On the side of the accused, none was examined and no documents were marked.

4.At the conclusion of the trial, the trial Court came to the finding that the charges that were framed against the accused persons were proved beyond the reasonable doubt. On that basis, the accused were found guilty, convicted and sentenced above. Challenging the above said conviction and sentence, appeal has been preferred by the petitioner. Pending appeal, this petition has been filed seeking suspension of sentence.

5.The learned counsel for the petitioner submitted that the date of occurrence is 02.09.2020 and the date of complaint is 19.09.2020. There is a huge delay, which was not explained. There was a civil dispute between the parties and temple management issue is also existed. During the course of the trial process, victim gave contradictory statement with regard to the contents of the FIR.

6.Per contra, the learned Additional Public Prosecutor submitted that this petitioner have an intention to commit sexual assault upon the victim. So, no interference is called for suspending the sentence.

7.The date of occurrence is stated to be 02.09.2020. But FIR has been registered on 19.09.2020. The reason for such delay has not been mentioned in the complaint. The victim girl gave a statement before the Court stating that on 05.09.2020 at about 05.30 p.m. when she was collecting flowers from her garden, the accused came there and grabbed her hands and at that time her parents were in another portion of the garden. She called her parents and parents came and the accused ran away from that place. Because of the above said occurrence, panchayat was arranged at Village level. But the accused did not comply the Village Panchayat. Only thereafter, the



8. Reading of the evidence of PW1 shows that subsequent to the above said occurrence, there was a Panchayat between the parties at the Village Level itself. PW2, victim's father has also given such supporting evidence. Even the independent witness PW6 has given a statement that the petitioner was required to appear before the Panchayat for settlement. So the contention on the part of the petitioner that the case has been foisted because of the previous motive is not correct on record. Whether the delay on the part of the victim girl in lodging the complaint is fatal to the prosecution is the matter for consideration in the appeal. It was also established before the trial Court that the age of the victim girl is only 14 years at the time of occurrence. The manner in which the above said offence said to have committed and the conduct of the petitioner, dis-entitles him to claim the benefit of the suspension of sentence.

9. This petition deserves to be dismissed. Accordingly,
dismissed.

sd/-

25/01/2023

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/02/2023

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

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TO

- 1 THE SESSIONS JUDGE, FAST TRACK MAHILA COURT, DINDIGUL.
- 2 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, NILAKOTTAI, DINDIGUL DISTRICT.
- 3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL MP(MD) No.14249 of 2022
IN
CRL A(MD) No.788 of 2022
Date :25/01/2023

RS/SSS/SAR.3(04.02.2023) 3P-5C