



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

Wednesday, the Fifteenth day of February Two Thousand and
Twenty Three

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PRESENT
The Hon`ble Mr.Justice G.ILANGO VAN

CRL.M.P.(MD)No.14412 of 2022
in
CRL.A(MD) No.804 of 2022

SURESH

... PETITIONER/PETITIONER

Vs

1 THE DEPUTY SUPERINTENDENT OF POLICE,
ARIMALAM SUB DIVISION,
PUDUKOTTAI DISTRICT.

2 ELANJIYAM
RESIDING AT SANTHAPETTAI ROAD,
RAYAVARAM,
THIRUMAYAM,
PUDUKKOTTAI DISTRICT.

(R2 IS SUO MOTU IMPLEADED AS PER ORDER
OF THE COURT DATED 08.12.2022 IN CRL
MP(MD)NO.14412/2022 IN CRL A(MD)No.804/2022)

3 THE STATE REP.BY,
INSPECTOR OF POLICE
ARIMALAM POLICE STATION,
PUDUKOTTAI DISTRICT.
(CRIME NO.23/2021)

... RESPONDENTS/RESPONDENTS

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 by the Mahila Court, Pudukottai in Spl SC No.7/2021 dt.14.10.2022 and enlarge the petitioner on bail, pending disposal of the above Criminal appeal and thus render justice.

PRAYER IN CRL.A(MD) No.804 of 2022:

To call for the records and set aside the judgement and sentence passed in Spl.S.C.No.7 of 2021 dated 14.10.2022 on the file of the Mahila Court, Pudukottai allow the appeal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the
<https://www.judgement.in/> of M/S.ARUN PRASAD A, Advocate for the petitioner and of



M/S.B.NAMBISELVAN, Additional Public Prosecutor on behalf of Respondents 1 & 3, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence dated 14.10.2022 passed in S.C.No.7 of 2021 against the Petitioner / Appellant by the learned Mahila Court, Pudukkottai and enlarge the petitioner on bail, pending disposal of the Criminal Appeal.

2.The case of the prosecution in brief:-

The victim child was 12 years old and studying 5th standard. On 28.01.2021 at about 5.00 p.m., the victim girl was playing with other children in her street, at that time, the accused came behind her, lift her dress, pushed her in drainage and at that time the accused touched her private parts. She was rescued by one Harish. Based on the above said occurrence, a case was registered. The First Information Report has been filed making charges against the accused under Sections 9(m) r/w. 10 POCSO Amendment Act 2019, 506(i) of IPC r/w. 3(2)(Va) SC/ST (PoA) Act, Section 3(i)(w)(i) SC/ST (PoA) Act 1989.

3. Before the trial Court, on the side of the prosecution, 9 witnesses were examined as P.W.1 to P.W.9 and 14 documents marked as Ex.P.1 to Ex.P.14 and no material objects marked.

4. At conclusion of the trial, the trial Court has found that the accused was found guilty under Section 10 of POCSO Act and 3(1)(w)(i) SC/ST (PoA) Act 1989 and he was convicted and sentenced to undergo 7 years of Rigorous Imprisonment with fine of Rs.40,000/- and in default to undergo Rigorous Imprisonment of further period of one year for the offence under Section 10 of POCSO Act and under Section 3(1)(w)(i) SC/ST (PoA) Act, 1989, he was sentenced to undergo six months Rigorous Imprisonment and to pay fine of Rs.10,000/- in default to undergo two weeks Simple Imprisonment and the sentences to run concurrently.

5. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the instant Miscellaneous Petition seeking suspension of sentence.

6. The learned counsel for the petitioner would submit that there is previous enmity between himself and the father of the victim girl. Because of the enmity only, the above said false complaint has been given after lapse of six months. P.W.1 victim did not support the prosecution case.

7. Per contra, the learned counsel for the second respondent would submit that in June 2021, the occurrence took place and in the same year also complaint was given. The second occurrence took place, over which the present complaint has been given.



8. The learned Additional Public Prosecutor would submit at previous complaint was compromised between the parties. After the above said compromise, there was no trouble between them.

9. Since the previous complaint stated to be given by the father of the victim against the second respondent, enquiry file was called for and perused. Enquiry was undertaken in C.S.R No.71 of 2020, wherein it has been stated that by encroaching upon property belongs to the petitioner's father, the second respondent is making trouble. Compromise was reached between the parties, upon which, the above said complaint was closed on 28.06.2020 itself. After lapse of year, the present complaint said to have been given.

10. Even though, it has been stated that it is a false complaint, there one XXX supported the case of the prosecution, who is also child at that time of the alleged occurrence. P.W.4 also spoken about the occurrence.

11. So, I find that absolutely there is no connection with the earlier complaint that was given by the father of the petitioner against the second respondent and the present occurrence.

12. Considering the nature of offence, the manner in which the offence has been committed, the petitioner is not entitled for benefit of suspension of sentence now.

13. Accordingly, this Criminal Miscellaneous Petition is dismissed.

sd/-

15/02/2023

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/03/2023

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

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TO

- 1 THE JUDGE,
MAHILA COURT, PUDUKKOTTAI.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
ARIMALAM SUB DIVISION,
PUDUKOTTAI DISTRICT.
- 3 THE INSPECTOR OF POLICE
ARIMALAM POLICE STATION,
PUDUKOTTAI DISTRICT.



CRL.M.P.(MD)N



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4 THE SUPERINTENDENT,
CENTRAL PRISON,
TRICHY.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

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ORDER
IN
CRL.M.P. (MD) No.14412 of 2022
in
CRL.A (MD) No.804 of 2022
Date :15/02/2023

RK/MMS/SAR-3 (02/03/2023) 4P/6C