



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

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

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.985 of 2023

in

CRL A(MD)No.66 of 2023

PONNUCHAMY

... PETITIONER/PETITIONER

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
RAJAPALAYAM,
VIRUDHUNAGAR DISTRICT.
CRIME NO.6/2020.

... RESPONDENT/RESPONDENT

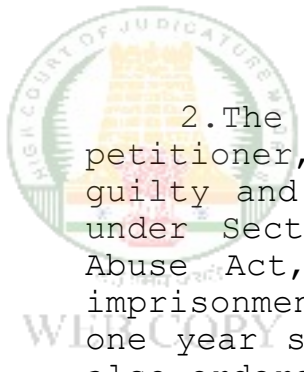
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed by Special Court for POCSO Act cases Virudhunagar District at Srivilliputhur in Special SC No.65/2020 dt.22/8/2022 and enlarge the petitioner on bail pending disposal of Criminal Appeal.

PRAYER IN CRL A(MD)No.66 of 2023:

Pleased to call for the records relating to the conviction judgment and sentence passed by Special Court for POCSO Act cases virudhunagar District at Srivilliputhur in Special S.C.65/2020 dated 22.08.2022 and set aside the same and acquit the appellant.

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.NARAYANAKUMAR K P, Advocate for the petitioner and of MR.B.NAMBISELVAN, 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 Special Judge, Special Court for Protection of Children from Sexual Offences Act Cases, Virudhunagar District at Srivilliputtur, dated 22.08.2022, in Spl.S.C.No.65 of 2020 and enlarge the petitioner on bail, pending disposal of the Criminal Appeal.



2.The learned counsel for the petitioner submitted the petitioner, who is the sole accused in this case, has been found guilty and convicted by the learned Special judge, for the offence under Section 9(m) r/w 10 of Prevention of Children from Sexual Abuse Act, 2012 and sentenced him to undergo 7 years rigorous imprisonment and imposed fine of Rs.10,000/- in default to undergo one year simple imprisonment. Set of under Section 428 Cr.P.C. is also ordered.

3.The case of the prosecution in brief:

On 17.11.2020 at about 02.00 p.m., when the victim girl was playing near her house, the accused misbehaved with her sexually by touching her private parts and also forcing her to touch his private parts. On the basis of the above said occurrence, complaint was lodged and FIR in Crime No.06 of 2020 has been registered. After completing the formalities of the investigation, final report was filed charging the accused for the offence punishable under Section 9(m) r/w 10 of POCSO Act, 2012. Before the trial Court on behalf of the prosecution 6 witnesses have been examined and 9 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 person were proved beyond the reasonable doubt. On that basis, the accused was 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 would submit that even as per the case of the prosecution, in the place of occurrence, where the offence said to be have taken place, three women were allegedly present. Hence, absolutely, there is no possibility or probability for the offences said to have been committed. Those three women witnesses were not examined on the side of the prosecution.

6.Per contra, the learned Additional Public Prosecutor submitted that the victim is 11 years old at the time of occurrence. The petitioner misbehaved sexually with her. So, no indulgence may be shown for suspending the sentence.

7.The victim girl has given a detailed narration with regard to the occurrence that has been taken place. No doubt that no independent witness has been examined on the side of the prosecution. But absolutely, there was no motive between the complainant and the accused. Considering the age of the victim girl and also considering the fact that the petitioner is aged about 63 years at the time of trial process, the mis-behaviour dis-entitles him from the benefit of suspension of sentence.



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

sd/-
25/01/2023

/ TRUE COPY /

/02/2023

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

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TO

- 1 THE JUDGE,
SPECIAL COUT FOR POCSO ACT CASES
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, RAJAPALAYAM,
VIRUDHUNAGAR DISTRICT. CRIME NO.6/2020.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.P.NARAYANAKUMAR, Advocate (SR-1177[I] dated
25/01/2023)

ORDER
IN
CRL MP(MD) No.985 of 2023
in
CRL A(MD)No.66 of 2023
Date :25/01/2023

PKP/ /SAR-3/04.02.2023/3P/6C