



CRL MP(MD) No.14824 of 2023

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

Wednesday, the Eighteenth day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.14824 of 2023

in

CRL A(MD)No.940 of 2023

BOMMANASAMY

... PETITIONER/ APPELLANT

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, VADAMADURAI,
DINDIGUL DISTRICT.

CRIME NO.1/2018.

... 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 suspend the sentence of imprisonment and enlarge the petitioner on bail pending disposal of the above Crl.A. by the judgment dt.21/9/2023 in Spl.SC.No.316/2023 on the file of Special Court for POCSO Cases, Dindigul.

PRAYER in CRL A(MD)No.940 of 2023:

To call for the records relating to the Judgment and sentence passed by Learned Special Court (for POCSO Cases), Dindigul in Special S.C.No.316 of 2023, dated 21.09.2023 passed on the appellant/accused and set aside the conviction and sentence against the appellant and to acquit the appellant in all charges.



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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.HAMEED ISMAIL S, Advocate for the petitioner and of Mr.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent while admitting the Criminal Appeal,, the Court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Special Court for POCSO Cases, Dindigul, in Spl.S.C.No.316 of 2023 dated 21.09.2023 and enlarge the petitioner on bail till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the petitioner teased the defacto complainant's daughter to marry him and also gave a mental torture. Therefore, defacto complainant gave a complaint against the petitioner and the case was registered against the petitioner by the respondent police in Crime No.1 of 2018. After completion of investigation formalities, final report was filed before the concerned Court for the offences under Sections 12 of POCSO Act, 2012 and the final report was taken on file in Spl.S.C.No.316 of 2023.

3. Before the trial Court, on the side of the prosecution, 9 witnesses have been examined as P.W.1 to P.W.9 and 4 documents were marked as Ex.P1 to Ex.P4. On the side of the accused, one witness was examined as D.W.1 and 4 documents were marked as Ex.D1 to Ex.D4.



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4. The Special Court for POCSO Cases, Dindigul, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 21.09.2023 by convicting the petitioner for the alleged offence under Section 12 of POCSO Act, 2012 and sentenced him to undergo simple imprisonment for a period of three years and to pay a fine of Rs.25,000/- (Rupees Twenty Five Thousand only), in default to undergo simple imprisonment for a period of one month. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5. The learned counsel for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He further submitted that the trial Court suspended the sentence till 20.10.2023.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

7. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.



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8. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal 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 entitled to the relief of grant of suspension of sentence.

9. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal with the following directions:-

(i) The petitioner is directed to be enlarged on bail on condition that 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 Special Court for POCSO Cases, Dindigul.

(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



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(iii) The petitioner shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders.

sd/-
18/10/2023

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19/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA

TO

- 1 THE JUDGE,
SPECIAL COURT (FOR POCSO CASES), DINDIGUL.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, VADAMADURAI,
DINDIGUL DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI. (CALL FOR THE RECORDS)



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+1 CC to M/s.S.HAMEED ISMAIL, Advocate (SR-15383[I] dated 18/10/2023)

ORDER
IN
CRL MP(MD) No.14824 of 2023
in
CRL A(MD)No.940 of 2023
Date :18/10/2023

SS/SAR- /19/10/2023/6P/6C

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