



CRL MP(MD) No.15331 of 2023

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

Friday, the Twenty Second day of December Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.15331 of 2023

in

CRL A(MD) No.288 of 2023

ANANTH @ ARIVANANTHAM

... APPELLANT/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE  
ALL WOMEN POLICE STATION,  
KULITHALAI, KARUR DISTRICT.  
(CRIME NO.4/2022).

... 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 enlarge the petitioner on bail by suspending the sentence imposed on him by the Additional Sessions Judge (Fast Track Mahila Court), Karur in Spl.S.C.No.25 of 2022 dated 31.01.2023, pending disposal of the above Criminal Appeal.

Prayer in CRL A(MD).288/2023 :

To call for records and set aside the judgment made in Spl.S.C.No.25 of 2022 by the Additional Sessions Judge (Fast Track Mahila Court), Karur dated 31.01.2023.

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.VENKATESH.D, Advocate for the petitioner and of MR.S.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-



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Reserved on : 29.11.2023

Pronounced on : 22.12.2023

The petitioner has filed this petition to suspend the sentence imposed against him in judgment dated 31.01.2023 made in Spl.S.C.No.25 of 2022 on the file of the Additional Sessions Judge (Fast Track Mahila Court), Karur and to enlarge him on bail pending disposal of Criminal Appeal.

**2.The brief facts of the prosecution case:**

The mother of the victim boy is the defacto complainant. The accused is also related to them. On 27.03.2023 when the victim boy was returning home after buying pencil and pen, the accused kidnapped the victim boy to the nearby morning staff school, old Jeyankondam at 7.00 p.m, since the school gate was found closed, the accused made the victim boy to stand on the compound wall and got down him after the accused jumped into school and after removing the dress of the boy, the accused committed aggravated penetrative sexual assault on anus of the victim boy and criminally intimidated the victim boy. The victim boy narrated the occurrence to his mother through phone and on 28.03.2022 the defacto complainant/PW1 lodged a criminal complaint before the All Women Police Station, Kulithalai against the accused. FIR was registered in Crime No.4 of 2022 for the offence under Sections 367, 506 (i) of IPC and Sections 5(l), 5(m) and 6 of POCSO Act against the accused. P.W.10



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– The Inspector of Police did investigation and laid charge sheet for the offences under sections stated above.

3.To prove the charge the prosecution examined 10 witnesses as P.W.1 to P.W.10 and marked 18 exhibits as Ex.P1 to Ex.P18 and three MOs marked. On the defence side, three witnesses were examined and no exhibit was marked. After considering the evidences and both side arguments, the Trial Court has found the petitioner/accused guilty for the offence under Sections 367, 506 (i) of IPC and Section 6 of POCSO Act and convicted and sentenced him to undergo simple imprisonment for a period of 10 years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of one year for the offence under Section 367 of IPC and sentenced him to undergo rigorous imprisonment for a period of 20 years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of one year for the offence under Section 6 of POCSO Act and also sentenced him to undergo simple imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of 6 months for the offence under Section 506 (i) of IPC and directed the sentences to run concurrently by passing impugned judgment dated 31.01.2023.

4. Aggrieved by the conviction judgment, the petitioner/accused has preferred the present Criminal Appeal before this Court. Along with appeal, the



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petitioner/accused has filed this petition seeking for suspension of sentence and for  
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bail pending disposal of the appeal.

5. Heard both sides and perused the records in this Criminal Miscellaneous  
Petition.

6. The learned counsel for the petitioner has submitted that the accused is  
relative of the defacto complainant and her husband and there was land dispute  
between both families and due to that motive, the case is foisted against the accused.  
The victim boy aged 10 years, alleged anus sex against the accused. As per the victim  
boy's evidence, there was such annul sex at an earlier point of time, but he had not  
disclosed the same to his parents. This incident is second time according to victim  
boy. There was one day delay in registering FIR. The evidence of medical officers  
P.W.7 and P.W.8 has not supported the prosecution case and no external injury as per  
medical evidence. Further there is contradiction regarding seizure of M.O.1 and  
M.O.2 between the prosecution witnesses. The learned counsel further contended  
that the Trial Court has not considered or appreciated the evidence adduced on the  
side of defence D.W.1 to D.W.3. The petitioner is in prison totally for the past 1  
½ years including remand period during trial. The petitioner has fair chance of  
succeed in appeal. Therefore, the learned counsel for the petitioner prays for  
suspension of sentence and bail for the petitioner.



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7. Per contra, the learned Additional Public Prosecutor would submit that the victim boy was aged about 7 years old at the time of alleged occurrence. The accused is known the victim boy. The victim child narrated the crime committed by the accused to P.W.1 over phone as his parents lived at Gandhigram. The victim as P.W.2 clearly deposed about the penetrative assault by the petitioner. The doctors clearly deposed that there was seen no injury as the boy was medically examined after twice bath and natural call. The Trial Judge has properly appreciated the evidence adduced by the prosecution and has correctly passed the judgment convicting the accused as stated therein. The petitioner is awarded 20 years imprisonment. The gravity of offence committed by the petitioner has to be looked in this case. Therefore, he strongly opposed to grant suspension of sentence.

8. On hearing both side rival arguments and on perusal of records, it is clear that the petitioner was convicted and sentenced to imprisonment as stated supra. During the course of argument, the learned counsel for the petitioner has drawn the attention of the court to certain grounds of defence that the petitioner has been falsely implicated in this case since there was land dispute between both families. The contention of the learned counsel for the petitioner raised in this petition is a matter for consideration in the appeal. The petitioner is in jail for a short period from the date of judgment against total period of sentence of 20 years. Therefore, considering



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the gravity of the offence and the manner in which, the offence was committed by the petitioner, this Court is not inclined to suspend the sentence at this stage and also this is not a fit case to exercise the jurisdiction of suspense of sentence.

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

sd/-

22/12/2023

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/01/2024

Sub-Assistant Registrar (C.S. I / II / III / IV )  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

VSD

TO

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

ORDER IN

CRL MP(MD) No.15331 of 2023  
in CRL A(MD) No.288 of 2023

Date :22/12/2023

RS/JGB/SAR-(05.01.2024) 6P 5C

Madurai Bench of Madras High Court is issuing  
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