



CRL MP(MD) No.15842 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Tenth day of November Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.15842 of 2023

IN

CRL A(MD) No.997 of 2023

M.MANOJ

... Appellant / Sole Accused

Vs

THE STATE THROUGH
THE INSPECTOR OF POLICE
KODAIKANAL POLICE STATION,
DINDIGUL DISTRICT.
(IN CRIME NO.466/2021).

... Respondent / Complainant

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an order to suspend the sentence passed in Spl.SC.No.117/2023, on the file of the Learned Fast Track Mahila Court, Dindigul dated 04.10.2023 and to enlarge the petitioner on bail pending disposal in Crl.A.

Prayer in CRL A(MD) No.997 of 2023:

To call for the records pertaining to the Sessions Case in Spl.S.C.No.117 of 2023 on the file of the Learned Fast Track Mahila Court, Dindigul dated 04.10.2023 and to acquit the appellant / accused from all the 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.C.M.ARUMUGAM, Advocate for the petitioner and of Mr.S.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 Fast Track Mahila Court, Dindigul in Spl.S.C.No.117 of 2023 dated 04.10.2023 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

2. The case of the prosecution is that on 28.06.2021, the petitioner had kidnapped the defacto complainant daughter, who is a minor girl aged about 17 years, for the purpose of marrying her and also had sexually assaulted her. Based on the complaint F.I.R., was registered in Crime No.466 of 2021 for the offence under Sections 363 of IPC and Section 7 r/w 8 of POCSO Act, 2012. After completion of investigation, final report was filed before the Fast Track Mahila Court, Dindigul and the same was taken on file in Spl.S.C.No.117 of 2023.

3. Before the trial Court, on the side of the prosecution, 11 witnesses have been examined as P.W.1 to P.W.11 and 20 documents were marked as Ex.P1 to Ex.P20 and three MOs marked. On the defence side, 3 witnesses were examined as D.W.1 to D.W.3 and no exhibit was marked.

4. The learned Trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the



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impugned judgment dated 04.10.2023 convicting the petitioner for the offence under Section 363 of IPC and sentenced him to undergo rigorous 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 three months and acquitted from the charge under Section 8 of the POCSO Act, 2012. Challenging the above said conviction and sentence, the petitioner 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 the petitioner paid the entire fine amount and the sentence of imprisonment passed against the petitioner has been suspended by the trial Court till 03.11.2023 and there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses and he prays to allow this petition.

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.

8. The learned counsel for the petitioner pointed out that certain infirmities



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and inconsistencies in this case and also certain contradictions in material particulars. The Trial Court suspended the sentence imposed against the petitioner till 03.11.2023. 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 till the disposal of the appeal on the following conditions:-

(i) The petitioner/Accused is directed to be enlarged on bail on condition that the petitioner/Accused 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 Fast Track Mahila Court, 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

(iii) The petitioner/Accused shall appear before the trial Court once in a



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month i.e., on the first working day of every English calendar month at 10.30 a.m.,

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until further orders.

sd/-

10/11/2023

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

VSD

To

1.The Fast Tack Mahila Court,
Dindigul.

2.The Inspector of Police,
Kodaikanal Police Station,
Dindigul District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER

IN

CRL MP(MD) No.15842 of 2023

IN

CRL A(MD) No.997 of 2023

Date :10/11/2023

ED/VRS/SAR- (23/11/2023) 5P / 4 C

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