



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

Tuesday, the Tenth day of January Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.15560 of 2022

IN

CRL A(MD) No.399 of 2021

SANGARANARAYANAN

... PETITIONER/APPELLANT/
ACCUSED No.2

Vs

1 THE STATE REP.BY
THE INSPECTOR OF POLICE
M.PUDUPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT
(CRIME NO.427 OF 2004)

... RESPONDENT/RESPONDENT/
COMPLAINANT

2 PANDISELVI

... RESPONDENT/VICTIM

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 imposed by the learned Special Court of Exclusive Trial of Cases under POCSO Act Cases, Virudhunagar District at Srivilliputhur in Spl.S.C.No.50 of 2016 by the judgment dated 18.08.2021 and enlarge the Petitioner/Appellant on bail, pending disposal of the above said Criminal Appeal.

Prayer in Crl.A(MD)No.399/2021:

Pleased to set aside the Judgment and Conviction dated 18.08.2021, by the learned Special Court of Exclusive Trial of Cases under POCSO Act Cases Virudhunagar District at Srivilliputhur, in Spl.S.C.No.50 of 2016 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.KANAGARAJ J, Advocate for the petitioner and of Mr.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the 1st Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the conviction and sentence imposed against the petitioner in

<https://www.mhc.tn.gov.in/judis>



Spl.S.C.No.50 of 2016, dated 18/08/2021 by the Special C or Exclusive Trial of cases under POCSO Act cases, Virudhunagar District at Srivilliputhur and enlarge the petitioner on bail pending disposal of the criminal appeal.

2.The case of the prosecution in brief:-

The victim girl is aged about 16 years at the time of the alleged occurrence and studying 11th Standard. On 23/02/2016, A2 told her that her mother is waiting in agricultural field for her. She was taken to bushy area and there he committed penetrative sexual assault upon the victim repeatedly. He has also made life threat not to disclose the same to any one.

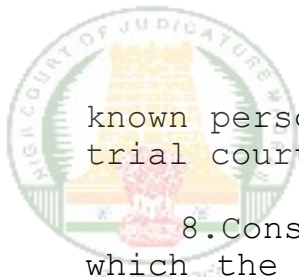
3.The above said occurrence was informed to A1, he went on 23/02/2016 at about 08.30 am and under the threat of disclosing the occurrence also committed the penetrative sexual assault. On the basis of the above said occurrence, the case was registered and after completing the formalities of investigation final report was filed.

4.During trial process, on the side of the prosecution to prove the guilt of the accused, 18 witnesses were examined and 12 documents marked. On the side of the accused, none was examined and no document was also exhibited.

5.At the conclusion of the trial process, the trial court found the accused guilty of the offence under sections 363 IPC and sentenced to undergo 7 years RI and imposed a fine of Rs.5,000/- with default clause; for the offence under section 4 r/w 3 of POCSO Act, 2012 and sentenced to undergo 10 years RI and imposed a fine of Rs.5,000/-. Challenging the above said sentence, criminal appeal has been preferred before this court. Pending appeal, this miscellaneous petition has been filed by the petitioner, who is arrayed as A2.

6.The learned counsel appearing for the petitioner would submit that even as per the evidence that was adduced by the prosecution, no overtact has been attributed against this petitioner. But reading of the entire evidence as well as the prosecution case, it is seen that major allegations have been made against the petitioner. He was sentenced to undergo 10 years imprisonment. So the contention on the part of the petitioner that no specific overtact has been attributed against this petitioner is not at all correct on record.

7.No doubt that there are some contradictory versions by the victim before the trial court, as we read her evidence. But whether the above said contradiction is sufficient enough for rejecting the prosecution case is a matter for consideration in the appeal and the medical evidence is also standing against the petitioner. At the time of medical examination, her hymen was not intact. She has also stated before the medical officer that she was sexually assaulted by



known person on 23/02/2016. The age has also been proved by the trial court.

8. Considering the circumstances of the case and the manner in which the offence said to have been taken place the petitioner is not entitled for suspension of sentence.

9. In the result, this criminal miscellaneous petition is **dismissed**. Since the typed set papers is made ready for argument, the Registry is directed to list the main appeal for hearing.

sd/-
10/01/2023

/ TRUE COPY /

/01/2023

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

ER

TO

1 THE JUDGE,
SPECIAL COURT OF EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT CASES,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2 THE INSPECTOR OF POLICE
M.PUDUPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.

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

+1. C.C. to M/S.KANAGARAJ J Advocate SR.No.741 (I)
Date:12/01/2023.

ORDER IN

CRL MP(MD) No.15560 of 2022
IN
CRL A(MD) No.399 of 2021
Date :10/01/2023

SA/BUC/SAR.2/27.01.2023/3P/6C