



CRL MP(MD) No.15595 of 2023

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

**Wednesday, the Sixth day of December Two Thousand and Twenty Three
PRESENT**

**The Hon`ble Mr.Justice P. VADAMALAI
CRL MP(MD) No.15595 of 2023
in
CRL A(MD) No.130 of 2023**

S.KARTHIRVELSAMY

... PETITIONER/ APPELLANT

Vs

**THE INSPECTOR OF POLICE
ARUPPUKKOTTAI ALL WOMEN POLICE STATION,
ARUPPUKKOTTAI,
CRIME NO.15/2020.**

... 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 Suspend the sentence passed in Spl.S.C.No.72/2020 on the file of the Special Court for POSCO Act Cases, Virudhunagar District at Srivilliputhur, dated 02.11.2022 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

Prayer in CRL A(MD).130/2023 :

To call for the records relating to the conviction passed in Spl.S.C.No.72 of 2020 on the file of the Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur, dated 02.11.2022 and set aside the same.

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 MR.C.VAKEESWARAN, Advocate for the petitioner and of MR.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

Reserved on : 17.11.2023

Pronounced on : 06.12.2023

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner in Spl.S.C.No.72 of 2020, dated 02.11.2022 by the Special Court



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for POCSO Act Cases, Virudhunagar District at Srivilliputhur and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

2. The learned counsel appearing for the petitioner submitted that the learned trial Judge has convicted the petitioner only on assumption and presumption and not on evidence. Further, the petitioner has no bad antecedent and previous conviction for any offences. Therefore, he prayed to suspend the sentence imposed on the petitioner.

3. The learned Additional Public Prosecutor appearing for the respondent submitted that the learned trial Judge, upon considering all the evidence on records, has rightly convicted the petitioner. He would further submit that this is the second application and the earlier application was dismissed by this Court on 02.03.2023 in CrI.M.P(MD)No.2785 of 2023 and there is no change in circumstances. Hence, he strongly opposed to grant suspension of sentence.

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

5. This petition has been filed to suspend the sentence imposed on the petitioner as a second time. In earlier occasions, this Court passed a detailed order and dismissed the same in CrI.M.P.(MD).No.2785 of 2023 dated 02.03.2023, which is as follows:



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"2.The facts in brief:- On 24/09/2020 and 25/09/2020, when the victim was playing along with her friends, the accused took up the victim girl, who is aged 4 years to his house and licked her private part and also threatened the victim girl. On the basis of the above said occurrence, the case was registered for the offences punishable under section 5(m) r/w 6 of POCSO Act and 506(i)IPC. After completing the formalities of the investigation, final report has been filed before the concerned trial court in Special SC No.72 of 2020.

3.Before the trial court, on the side of the prosecution, 9 witnesses were examined and 13 documents marked. On the side of the accused, no oral and documentary evidence was adduced.

4.At the conclusion of the trial, the trial court found the accused guilty, convicted and sentenced him to undergo 20 years Rigorous Imprisonment and imposed a fine of Rs.10,000/- with default clause for the offence under section 5(m) r/w 6 of POSCO Act, 2012; and to undergo 1 year Simple Imprisonment for the offence under section 506(i) IPC.

5.Challenging the above said conviction and sentence, Criminal Appeal has been preferred. Pending appeal, this miscellaneous petition has been filed.



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dismissing the suspension.

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10. In the result, this criminal miscellaneous petition is dismissed".

6. Therefore, considering the gravity of the offence and the manner in which, the offence was committed by the petitioner, this Court does not find any new grounds to suspend the sentence imposed on the petitioner.

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

sd/-
06/12/2023

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/12/2023

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

VSD

TO

1 THE JUDGE, SPECIAL COURT FOR POCSO ACT CASES,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2 THE INSPECTOR OF POLICE,
ARUPPUKKOTTAI ALL WOMEN POLICE STATION,
ARUPPUKKOTTAI.

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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



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ORDER
IN
CRL MP(MD) No.15595 of 2023
in
CRL A(MD) No.130 of 2023
Date :06/12/2023

RS/SS/SAR-(14.12.2023) 6P 5C
Madurai Bench of Madras High Court is issuing
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