



CRL MP(MD) No.15577 of 2023

**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.15577 of 2023

in

CRL A(MD)No. 86 of 2023

RANAVEERAN @ APLAN

... PETITIONER/ APPELLANT

Vs

**THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
SRIVILLIPUTHUR.
VIRUDHUNAGAR DISTRICT.
CRIME NO. 02/2020**

... 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 imposed on the petitioner by the learned Special court for POCSO Act cases, Virudhunagar District camp at Srivilliputhur in Special S.C No. 41 of 2020 by the judgment dt. 23.08.2022 and enlarge the petitioner on bail pending disposal of the above appeal.

PRAYER IN CRL A(MD)No. 86 OF 2023:

Pleased to allow this appeal and set aside the judgment and conviction dated 23.08.2022 passed by the learned Special Court for POCSO Act cases, Virudhunagar District camp at Srivilliputhur in Special S.C.No. 41 of 2020 and acquit the appellant.



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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.SUDALAIYANDI K, Advocate for the petitioner and of MR.B.NAMBISELVAN, 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 S.C.No.41 of 2020, dated 23.08.2022 by the Special Court for POCSO Act Cases, Virudhunagar District Camp 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. He would further submit that this is the second application and already the petitioner filed CrI.M.P.(MD)No.4555 of 2023 and the same was dismissed on 27.04.2023 and the petitioner is in judicial custody from 17.02.2020 for more than three years and he is also ready to abide by any condition imposed by this Court. Hence, 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,



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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 27.04.2023 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 Crl.M.P.(MD).No.4555 of 2023 dated 27.04.2023, which is as follows:

"2. The case of the prosecution is that three children were sexually abused by five accused persons. According to the prosecution, three victim children were aged 7 years 2 months; 6 years 4 months and 7 years 7 months at the time of alleged occurrence. The prosecution case as against the second petitioner is that when the second victim girl was playing in front of his house by saying that he would give money and eatables had taken the girl to his home and caused sexual assault against the said girl and also criminally intimidated her. On the

basis of the complaint given by the first victim's mother, FIR came to



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the registered in Crime No.2 of 2020 and the respondent Police after completing the investigation, has laid the final report against five accused, including the petitioner for the offence under Sections 506(i) IPC and under Section 3(d) r/w 4, 5(l), (m), (i), (g) r/w 6 of POCSO Act.

3. During trial, the prosecution has examined 21 witnesses as P.W.1 to P.W.21 and exhibited 46 documents as Ex.P.1 to Ex.P.46. The accused has adduced neither oral nor documentary evidence.

4. The learned Sessions Judge, upon considering the evidence adduced and on hearing the arguments of both the sides, has passed the impugned judgment, dated 23.08.2022, acquitted the fifth accused and convicting accused 1 to 4 for the offence under Section 5 (m) r/w 6 of POCSO Act and sentenced them to undergo 20 years rigorous imprisonment and to pay a fine of Rs.10,000/- in default to undergo one year simple imprisonment. Challenging the above said conviction and sentence, the second accused 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 the



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petitioner is in custody for the past three years; that the trial Court has failed to consider the material discrepancies found in the evidence and that the prosecution has miserably failed to prove the charges levelled against the present petitioner.

6. The learned Government Advocate (Criminal Side) appearing for the State would submit that all the victim girls were below 10 years at the time of occurrence, that the prosecution has produced ample evidence and proved the charge against the petitioner/accused and that since the impugned judgment was passed only on 23.08.2022; the petitioner is not entitled to get the relief of suspension of sentence at this point of time.

7. Considering the facts and circumstances of the case and also the seriousness and gravity of the offence allegedly proved and also the fact that the impugned judgment was passed on 23.08.2022 and the period of incarceration and also taking note of the age of the victim children, this Court is not inclined to grant suspension of sentence at this point of time.

8. In the result, the Criminal Miscellaneous Petition is dismissed".



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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 SESSIONS JUDGE
SPECIAL COURT FOR POCSO ACT CASES,
VIRUDHUNAGAR DISTRICT CAMP AT SRIVILLIPUTHUR.
- 2 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, SRIVILLIPUTHUR.
VIRUDHUNAGAR DISTRICT.



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

ORDER
IN
CRL MP(MD) No.15577 of 2023
in
CRL A(MD)No. 86 of 2023
Date :06/12/2023

PKP/VR/SAR- /12.12.2023/ 7P/5C

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