



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

Wednesday, the Eleventh day of January Two Thousand and Twenty  
Three

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PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.16439 of 2022  
IN CRL A(MD).344 OF 2022

PARAMESHWARAN

... PETITIONER/APPELLANT

Vs

THE INSPECTOR OF POLICE  
RAILWAY POLICE STATION,  
DINDIGUL DISTRICT.

... RESPONDENT/RESPONDENT

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 herein by judgment dt.15.3.2022 made in Special Sessions Case No.10 of 2019 passed by the Honble Fast Track Mahila Court, Dindigul and release the Petitioner.

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.PANDIYAN V, Advocate for the petitioner and of MR.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed upon the petitioner in Special Sessions Case No.10 of 2019, dated 15/03/2022 by the Fast Track Mahila Judge, Dindigul and enlarge the petitioner on bail pending disposal of the criminal appeal.

2.The case of the prosecution is that the victim is a boy aged about 11 years at the time of the occurrence. He is also a mentally disabled boy. As per the assessment made by the Doctor, he got intellectual capacity of 54% having mental capacity of 8 years boy. He has given a clear statement with regard to the sexual assault. On the basis of the above said occurrence, the case was registered. After completing the formalities of investigation, charge sheet was filed against the accused for the offence punishable under section 9 (k) r/w 10 of the Protection of Children from Sexual Offences Act,



3. During the process of trial, on the side of the prosecution, 26 witnesses were examined and 16 documents marked. On the side of the accused, neither oral nor documentary evidence was adduced.

4. At the conclusion of the trial, the trial court found that the charge under section 9(k) r/w 10 of Protection of Children from Sexual Offences Act stands proved against the petitioner and accordingly, convicted and sentenced him to undergo 5 years rigorous imprisonment and imposed a fine of Rs.5,000/- with default clause.

5. Challenging the above said judgment of conviction and sentence, the accused preferred appeal. Pending appeal, this miscellaneous petition has been filed seeking suspension of sentence.

6. The earlier application that was filed by the petitioner was dismissed by this court in CrI.MP(MD)No.6020 of 2022 in CrI.A(MD) No.344 of 2022, dated 20/07/2022. I find no change of circumstances. This nature of offence disentitles the petitioner from claiming the benefit, even though, it is alleged that there is a delay of 3 days in giving the complaint and on the date of the alleged occurrence, this petitioner was not presented in the place of occurrence. But these things cannot be taken into account at this stage and it can be taken only at the time of hearing the main appeal.

7. For the reasons stated above, this criminal miscellaneous petition fails and the same is **dismissed**.

sd/-  
11/01/2023

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/ /2023  
Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

TO

1 THE SESSIONS JUDGE,  
FAST TRACK MAHILA COURT, DINDIGUL.

2 THE SUPERINTENDENT,  
CENTRAL PRISON, MADURAI.



3 THE INSPECTOR OF POLICE  
RAILWAY POLICE STATION, DINDIGUL DISTRICT.

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

ORDER  
IN  
CRL MP(MD) No.16439 of 2022  
IN CRL A(MD).344 OF 2022  
Date :11/01/2023

TR/MMS/SAR-II(23.01.2023) 3P 5C