



CRL MP(MD) No.16390 of 2023

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

RESERVED ON	22.11.2023
PRONOUNCED ON	27.11.2023

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.16390 of 2023

in

CRL A(MD) No.1019 of 2023

ANGELRAJ

... Petitioner / Petitioner

Vs

STATE THROUGH
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
DINDIGUL DISTRICT.
(CRIME NO.9/2021.)

... Respondent / Respondent

Criminl 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 by the learned Special Court, POCSO Act Cases Dindigul District passed in Spl SC No.157/2023 dated 11.09.2023 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

Prayer in CRL A(MD) No.1019 of 2023:

To call for the records pertaining to the order dated 11.09.2023 in Spl.S.C.No.157 of 2023 on the file of the Learned Special Court for POCSO Act cases, Dindigul District and to set aside the same by allowing this criminal appeal.

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



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S.SIVAPRAKASH, Advocate for the petitioner and of Mr.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent, while admitting the criminal appeal, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Special Court, POCSO Act Cases Dindigul District, in Spl.S.C.No.157 of 2023, dated 11.09.2023, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the petitioner shared the child's and women's sexual photos in the social media. Thereafter, a case was registered against the petitioner by the respondent police in Crime No.09 of 2021 for the offences under Sections 13, 14(1), 15 of Protection of Child from sexual offences Act 2012 and 67A, 67B Information Technology Act.

3. The respondent police, after completing the investigation, has filed the final report and the case was taken on file in Spl.S.C.No.157 of 2023 and the same was pending on the file of the learned Special Court, POCSO Act Cases Dindigul District.

4. During trial, the prosecution has examined 9 witnesses as P.W.1 to P.W.9, exhibited 9 documents as Ex.P.1 to Ex.P.9 and marked 4 material objects as M.O.1 to M.O.4. The defence have adduced neither oral nor documentary evidence.

5. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the impugned judgment dated 11.09.2023 convicting the petitioner and sentenced him as follows:



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S.No.	Offence	Sentence	Fine	In default sentence
1.	67A Information Technology Act 2012	One year of Rigorous Imprisonment	Rs.1,500/-	three Months simple imprisonment
2.	67B Information Technology Act 2012	One year of Rigorous Imprisonment	Rs.1,500/-	three Months simple imprisonment
3.	13C r/w 14(1) POCSO Act, 2012	Five years of Rigorous Imprisonment	Rs.2,000/-	Three months simple imprisonment

6. Aggrieved by the said judgment of conviction and sentence, the petitioner has come forward with the present criminal appeal along with the above application for suspension of sentence.

7. The learned Counsel for the petitioner would submit that there is no victim in this case and there is no evidence against the petitioner and the respondent police has not seized any material evidence from the petitioner to prove the prosecution case. He further would submit that the petitioner's mobile was missing before the six months and the same was not considered either by the respondent police or by the trial Court. He further submitted that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

8. The learned Additional Public Prosecutor appearing for the respondent would



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submit that the petitioner shared the child's and women's sexual photos in the social media.

He further would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

9. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

10. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. 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.

11. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal with the following directions:-

(i) The petitioner is directed to be enlarged on bail on condition that the petitioner 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 learned Special Court, POCSO Act Cases Dindigul District.

(ii) The sureties shall affix their photographs and Left Thumb



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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 shall appear before the trial Court once in a week i.e., on every Monday at 10.30 a.m., until further orders.

sd/-
27/11/2023

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28 /11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA

To

1.The Special Court,
POCSO Act Cases, Dindigul District.

2.The Inspector of Police,
All Women Police Station,
Dindigul District.

3.The Superintendent,
Central Prison, Madurai.

4.The Additional Public prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC to M/s.S.SIVAPRAKASH, Advocate, SR.No.53360(F), dated 27.11.2023
+1CC to M/s.S.SIVAPRAKASH, Advocate, SR.No.16995(I), dated 28.11.2023

ORDER
IN

CRL MP(MD) No.16390 of 2023 in
CRL A(MD) No.1019 of 2023
Date :27/11/2023



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ED/ /SAR- (28/11/2023) 6P / 7C
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