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Crl.M.P. No. 1249 of 2024
in
Crl.A. No.116 of 2024

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In

Crl.A.No. 116 of 2024

M. NIRMALKUMAR,J.

The petitioner/accused in Spl.C.C. No. 21 of 2021 was convicted by the Trial Court by judgment dated 30.11.2023 for the offences under Section 342 (3 counts) IPC and Section 9(m) r/w 10 (3 counts) of POCSO Act and sentenced to undergo rigorous imprisonment for one year together with a fine of Rs. 500/- carrying a default sentence of simple imprisonment for three months for the offence under Section 342 IPC and for the offence under the POCSO Act, he was sentenced to undergo rigorous imprisonment or seven years together with a fine of Rs. 1000/- on each count carrying a default sentence of simple imprisonment for one year on each count. . As against the said conviction and sentence, the present revision is filed along with this petition seeking suspension of sentence.

2. The contention of the learned counsel for the petitioner is that the petitioner was working with P.W.8, mother of P.W.5. They had some dispute on the workspot. In view of the same, P.W.8 had tutored P.W.s 3 to



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5 victim girls to speak against the petitioner as though the petitioner had misbehaved with them at one time for three days, which is highly improbable. Further, in this case, P.W.s 14 and 15, friends of the victim girls have been projected as eye-witnesses when the victims had clearly stated that at the time of occurrence, the petitioner had locked the door and inside the room, the incident had happened. Under such circumstances, P.W.s 14 and 15 witnessing the incident is impossible. In this case, Headmistresses P.W.s 16 and 17 had produced the school certificates and the age of the victim girls recorded in the certificates is only approximate and no birth certificates have been produced. As regards the occurrence, there is variation in the date of occurrence and these factors have not been considered by the Trial Court. Therefore, the learned counsel would pray grant of suspension of sentence and bail.

3. Learned Government Advocate (Crl.Side) has filed counter and submitted that in this case, P.W.1, who is Child Line Counsellor, who was on Field Work along with P.W.2, on receiving information from P.W.8, the mother of one of the victim girls, enquired the victim girls and thereafter,



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WEB COPY

complaint has been lodged. On receipt of the complaint, the Police had enquired the victim girls, their parents, collected school certificates, produced the victim girls for Doctor's examination and after collecting the documents, charge sheet was filed. During trial, P.W.s 1 to 21 were examined and Exs.P1 to P16 were marked. The Trial Court, on the evidence of witnesses and documents produced had rightly convicted the petitioner and the incident has been spoken to not only by the victim girls but also corroborated by other witnesses. Hence, according to the learned Government Advocate (Crl.Side), the conviction of the petitioner has to be sustained and prayed for dismissal of the petition.

4. Heard both sides and perused the materials on record.

5. On consideration of the evidence and other materials on record, this Court is not inclined to suspend the sentence and the petition stands dismissed.

26.09.2024

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WEB COPY 1. The Sessions Court,