



Crl.M.P.No.4918 of 2024
in Crl.A.No.323 of 2024

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M.DHANDAPANI, J.

This Criminal Miscellaneous petition has been filed u/s 389(1) of Cr.P.C, seeking to suspend the sentence imposed through order dated 08.11.2022 against the petitioner in S.C.No.553 of 2018 on the file of the Sessions Judge, Special Court for trial of cases under POCSO Act, Chennai, pending disposal of the above appeal.

2. Heard learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing on the respondent police.

3. A perusal of the order of conviction dated 08.11.2022 made in S.C.No.553 of 2018 reveals that, the petitioner/appellant was convicted for offence under Section 6 (2 counts) of Protection of Children from Sexual Offences Act, 2012 and was sentenced to undergo rigorous imprisonment for 10 years with a fine of Rs.5,000/-, in default, to undergo simple imprisonment for 1 month for each count of charge.



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4. It is seen that on 07.05.2016 and before that, the petitioner/accused, while he was alone in his house committed oral and anal penetrative sexual assault on the two victim children ages 8 years by offering money of Rs.5 or 10 to them to buy snacks and by threatening them with dire consequences to not to dislodge the same to others. Thereafter, based on the complaint given by the mother of one of the victim child, the law enforcing agency has lodged complaint against the petitioner and the same ended in acquittal.

5. A perusal of the order passed by the trial court reveals that, there are two victim boys in this case and they were aged about 8 years at the time of occurrence. Further, from the evidence of P.W.2 and P.W.3, the victim children, it is proved on the side of the prosecution that the petitioner/accused has repeatedly committed penetrative sexual assault against the victim children and the said offence committed by the petitioner/accused is heinous in nature. The menace to the society by such unscrupulous elements is more and whenever suspension of sentence is sought for this Court has to be very circumspect in granting suspension.



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Suspension has to be granted only if a prima facie case is made out, where contradictions, which are crucial in nature are pointed out. In the case on hand, such crucial contradictions have not been pointed out and in such view of the matter, suspending the sentence, as a matter of course, will set a bad precedent in the society. Therefore, this Court is not inclined to accede to the prayer of the petitioner/appellant seeking suspension of sentence.

6. Hence, this Court is not inclined to suspend the sentence of imprisonment against the petitioner in S.C.No.553 of 2018 dated 08.11.2022 and accordingly, this Criminal Miscellaneous Petition stands dismissed.

7. Post the main Criminal Appeal as per seriatum.

02.08.2024

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To

- 1.The Sessions Judge,
Special Court for Exclusive Trial of Cases under POCSO Act,
Chennai – 104.
- 2.The Inspector of Police,
W-14, All Women Police Station,
Thiruvottiyur, Chennai – 600 019.
- 3.The Public Prosecutor,
High Court of Madras.

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