



*Crl.MP.Nos, 6288, 7981 & 873 /2023
in Crl.A.Nos.505, 627 &69 /2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 12.04.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.6288 of 2023

in Crl.A.No.505 of 2023

and

Crl.MP.No.7981 of 2023

in Crl.A.No.627 of 2023

and

Crl.MP.No.873 of 2023

in Crl.A.No.69 of 2023

G.Rajendran

.. Petitioner/A10
in Crl.MP.6288/2023

Fazuludeen

.. Petitioner/A14
in Crl.MP.7981/2023

S.B.R.Kannan

.. Petitioner/A22
in Crl.MP.873/2023

Vs.

State rep. by
The Inspector of Police,
W-13, All Women Police Station,
Washermenpet, Chennai.
(Cr.No.18/2020)

... Respondent/Complainant
in All Crl.MPs



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Common Prayer:-Criminal Miscellaneous Petitions filed under Section 389 [1] of Cr.P.C., to suspend the execution of sentence imposed on the petitioners in Spl.S.C.No.12 of 2021, on the file of the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Chennai, by judgment dated 26.09.2022, till the disposal of the above mentioned appeals.

For Petitioner in Crl.MP.6288/23	: Mr.C.K.Chandrasekar for M/s.Durai Kannan
For Petitioner in Crl.MP.7981/23	: Mr.Velmurugan
For Petitioner in Crl.MP.873/23	: Mr.R.John Sathyan Senior Counsel
For Respondent in All Crl.MPs	: Mr.E.Raj Thilak Additional Public Prosecutor Assisted by Mr.C.Aravind

COMMON ORDER

[Order of the Court was made by SUNDER MOHAN, J]

These criminal miscellaneous petitions have been filed seeking to suspend the sentences imposed on the petitioners vide judgement and order dated 26.09.2022 passed in Spl.S.C.No.12 of 2021 on the file of the learned



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Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Chennai, and to enlarge the petitioners on bail pending disposal of the appeals.

2. It is the case of the prosecution that A1 to A5 are close relatives, and that A2 is the cousin sister of the victim child. The prosecution alleges that all the five accused, with an intention to earn money from prostitution, took the victim child from her parents on 29.08.2020 with a false promise to provide education to her, and involved her in prostitution and subjected her to have sexual intercourse with A10 to A22 from 29.08.2020 to 09.11.2020 on various dates. The petitioners herein are arrayed as A10, A14 and A22.

3. Heard Mr.John Sathyan (A22), Mr.Chandrasekar (A10) and Mr.Velmurugan (A14), the learned Senior counsels and counsels for the petitioners and Mr.E.Raj Thilak, the learned Additional Public Prosecutor appearing for the respondent/State.

4.The learned counsel for the petitioners submitted that similarly



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placed accused persons were released on bail. They particularly relied on the order passed in Crl.MP.No.4121 of 2024 in Crl.A.No.90 of 2024 and submitted that except identification by the victim, which is doubtful, there is no other evidence to connect the petitioners with the alleged offence; that the petitioners are in custody for about 3 1/2 years; and since the appeals are not likely to be taken up in the near future, prayed for suspension of sentence.

5.The learned Additional Public Prosecutor, per contra, submitted that there is evidence to show that the petitioners were identified by the victim and the trial Court was right in convicting the petitioners, and prayed for dismissal of the petitions filed for suspension of sentence.

6.We have carefully considered the rival submissions and perused the records.

7. This Court had already suspended the sentence in respect of some of the accused. Admittedly, except the identification by the victim, there is



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no other evidence to connect the petitioners with the offence. The relevant observations in the earlier order passed by us in Crl.M.P.4121/2024 in Crl.A.90/2024 read as follows:

7. (i) It is seen from the evidence of PW2, the victim that the petitioner was shown to the victim and was asked whether she knew him and the victim had stated that he had come to the house of one Sandhiya (A3), where she was subjected to sexual intercourse. However, we find in the deposition of PW2 that there is an endorsement by the trial Court to the effect that PW2 had privately informed the learned Judge that she was unable to identify some of the accused and the some of the accused were shown to her in the phone. Apart from the identification of the victim, there is no other evidence.

We are of the view that the petitioners against whom similar accusation has been made are entitled to the same relief.

8. Further, in respect of A22, as pointed out by the learned Senior Counsel, PW.29, who was examined to prove that the victim was brought to her house wherein A22 also visited, does not support the prosecution case,



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inasmuch as PW.29 had stated that A22 gave financial support for the victim to pursue her studies and the victim received the money only for her studies and left the place.

9. Therefore, considering the above facts, and also considering the fact that the petitioners are in custody for about 3 1/2 years and the appeal is not likely to be taken up in the near future, we are inclined to grant the relief of suspension of sentence to the petitioners herein viz. A10, A14 and A22.

10. Accordingly, these criminal miscellaneous petitions stand **allowed** and the sentence of imprisonment imposed on the petitioners/A10, A14 and A22 alone are **suspended** on the following conditions:

- (i) The petitioners shall separately execute a bond for a sum of Rs.25,000/-, (Rupees Twenty Five Thousand only) with two independent sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai;



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(ii)The petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and

(iii)The petitioners shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

(iv) This order of suspension shall be subject to payment of fine imposed on the petitioners by the Trial Court in the Judgement.

[M.S.R.,J.] [S.M.,J.]
12.04.2024

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Note: Issue order copy on 15.04.2024



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M.S.RAMESH, J

and

SUNDER MOHAN, J

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To

1.The Sessions Judge, Special Court for
Exclusive Trial of Cases under POCSO Act, Chennai

2.The Inspector of Police,
W-13, All Women Police Station,
Washermenpet,
Chennai.

3.The Superintendent of Prison,
Central Prison, Puzhal-I

4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.

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