



Crl.M.P.No.10923 of 2023 in Crl.A.No.641 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.04.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.M.P.No.10923 of 2023 in Crl.A.No.641 of 2021

Krishnaraj @ Thangaraj

...Petitioner / Appellant

Versus

The Inspector of Police,
All Women Police Station,
Tiruppattur,
Tiruppattur Taluk,
Tiruppattur District.

.. Respondents

Prayer:-Civil Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed on the petitioner vide judgement dated 06.09.2021 made in Spl.S.C.No.4 of 2018 on the file of the Court of the Sessions Judge (under POCSO Act, 2012), Vellore, Vellore District and enlarge the petitioner on bail pending of the Criminal Appeal in Crl.A.No.641 of 2021 before this Court.



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For Petitioner : Mr.S.Shanmuga Sundaram
for Mr.R.Muruga Bharathi

For Respondents : Mr.M.Babu Muthumeeran
Additional Public Prosecutor

ORDER

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

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner vide judgement and order dated 06.09.2021 passed in Spl.S.C.No.4 of 2018 on the file of the Court of the Sessions Judge (under POCSO Act, 2012), Vellore, Vellore District, and to enlarge the petitioner on bail till the disposal of the appeal.

2. The petitioner in the above Sessions Case, was convicted and sentenced as follows:

Offence under Section	Sentence imposed
6 r/w 5(I) of POCSO Act, 2012	To undergo imprisonment for life and to pay a fine of Rs.5,000/- in default to undergo three months rigorous imprisonment



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To undergo rigorous imprisonment for a period of 1 year

Both the sentences shall run concurrently

3. Challenging the above conviction and sentence, the petitioner has filed the above Criminal Appeal and he seeks suspension of sentence in the present petition.

4. The case of the prosecution is that the petitioner had committed penetrative sexual assault on the victim on 06.04.2013 and 05.09.2013; that since the victim got pregnant, the victim's mother lodged a complaint dated 20.12.2014.

5. Heard Mr.S.Shanmuga Sundaram, learned counsel for the petitioner [sole accused] and Mr.M.Babu Muthumeeran, the learned Additional Public Prosecutor appearing for the respondent/State.

6. Learned counsel for the petitioner submitted that all the witnesses, including the victim, turned hostile; that the trial Court had convicted the



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petitioner on the basis of the DNA examination report, and that the said opinion alone cannot be the basis to hold the petitioner guilty of the offences.

7. Learned Additional Public Prosecutor appearing for the State, per contra, submitted that the trial Court is right in convicting the petitioner in view of the categorical medical evidences and opposed the petition for suspension of sentence.

8. On a perusal of records, we find that P.W.1, mother of the victim and P.W.2, the victim herself, turned hostile. It is seen that apart from the DNA report, there is no other evidences to connect the petitioner with the crime. The question of whether the DNA report alone would be sufficient to hold the petitioner guilty of the offences has to be examined in the appeal.

9. Considering, the above facts, and the fact that the petitioner is in custody from 06.09.2021, we are inclined to grant the relief of suspension of



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sentence to the petitioner herein.

10. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment imposed on the petitioner is suspended on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two independent sureties, each for a like sum to the satisfaction of the learned Sessions Judge (under POCSO Act, 2012), Vellore, Vellore District;
- (ii) The petitioner 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 petitioner 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



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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.

Post the Criminal Appeal on 12.06.2024.

[M.S.R.,J.] [S.M.,J.]
30.04.2024

Anu

Issue order copy by 30 .04.2024

Upload the order copy forthwith.

To

1.The Sessions Judge (under POCSO Act, 2012),
Vellore, Vellore District

2.The Inspector of Police,
All Women Police Station,
Tiruppattur,
Tiruppattur Taluk,
Tiruppattur District.

3.The Superintendent of Prison,
Central Prison, Vellore.

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



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M.S.RAMESH, J

and

SUNDER MOHAN, J

Anu

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