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Crl.M.P.No.12214 of 2024 in Crl.A.No.1103 of 2024

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M.NIRMAL KUMAR, J.

This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed by the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore in Special C.C.No.107 of 2020, dated 29.07.2024.

2.The conviction and sentence imposed on the petitioner in Special Special C.C.No.107 of 2020 are as follows:

- For offence under Section 7 punishable under Section 8 of the Protection of Children from Sexual Offences Act, 2012, the petitioner is sentenced to undergo three years Rigorous Imprisonment and to pay a fine of Rs.10,000/- in default to undergo Simple Imprisonment for six months.
- For offence under Section 506(i) of IPC, the petitioner is sentenced to undergo Simple Imprisonment for one year.

3.The learned counsel for the petitioner submitted that the petitioner and the victim girl/PW1 are residing in row houses, there are four houses and there is common bathroom and toilet to all. For usage of motor, each house has to plug respective plugs and switch on the motor. In this regard, there was



constant fight between the petitioner's mother and the mother of victim girl/PW2. On 26.09.2020, at about 06.00 p.m, the petitioner's mother and the mother of victim girl/PW2 picked up quarrel and they abused each other, for which the petitioner's mother lodged a complaint to the respondent Police at about 06.00 p.m. The Police enquired and advised both the parties. In offensive, a complaint (Ex.P1) lodged as though on the same day at about 07.30 p.m, when the victim girl had gone to toilet to attend nature's call, the petitioner said to have entered the toilet and made inappropriate touch. In view of hostility between two families, no such occurrence alleged by the prosecution is possible. It is an admitted fact that there was dispute between the petitioner's mother and the mother of victim girl/PW2 in sharing water and electricity just few hours before the alleged occurrence. He further submitted that the petitioner's family and victim girl's family are tenants for quite sometime and the petitioner was not in talking terms with the victim girl. Thus, PW2 used her daughter/victim girl and projected a false case against the petitioner. He further submitted that the Trial Court convicted the petitioner for a period of three years and also suspended the sentence of the petitioner in Crl.M.P.No.1034 of 2024 and the same was extended in Crl.M.P.No.1159 of 2024. Since no orders passed in the suspension of sentence filed before this Court, the Trial Court forced the petitioner to surrender. Hence, prays for



suspension of sentence.

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4.The learned Government Advocate (Crl. Side) appearing for the respondent Police filed counter stating that the petitioner's family and the victim girl's family staying in a row house and there are few toilets located behind the house where the petitioner and the victim live. The bathroom in the middle is used by the victim's family and the first bathroom by the petitioner's family. Before the incident, whenever the victim girl came out of the house, the petitioner used to stare at the victim and the victim informed the same to her mother/PW2. On 27.09.2020 at about 07.30 p.m, when the victim went to the bathroom, the petitioner was standing outside in the alley came quickly and with the intention of sexually assaulting the victim, grabbed the victim's hand and gagged her. When the victim screamed, the petitioner pressed her breast and threatened that he would kill her if she does not stop screaming. Further, the petitioner touched the victim girl's waist, hugged her and came to kiss her. On the complaint (Ex.P1) of the mother of the victim girl/PW2, FIR (Ex.P5) in Crime No.2079 of 2020 registered for offence under Section 7 r/w 8 of the Protection of Children from Sexual Offences Act, 2012 and 506(ii) of IPC. On completion of investigation, charge sheet filed before the Trial Court. During trial, on the side of the prosecution, eight witnesses examined as PW1 to PW8



and eight documents marked as Exs.P1 to P8 and Ex.C1 marked by the Court.

On the evidence of the victim girl/PW1, the Trial Court had rightly convicted the petitioner. He further submitted in this case, the Trial Court convicted the petitioner for three years and later suspended the sentence.

5.Considering the submissions and on perusal of the materials, this Court finds that the contention of the petitioner requires consideration and the judgment to be reconsidered. Added to it, the Trial Court already suspended the sentence. In view of the same, this Court is inclined to grant suspension of sentence till the disposal of the appeal.

6.Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court. The petitioner shall appear before the Trial Court once in three months commencing from the month of October, 2024 at about 10.30 a.m, until the disposal of the criminal appeal. Accordingly, this Miscellaneous Petition is ordered.



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M.NIRMAL KUMAR, J.

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