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Crl.M.P.No.11772 of 2024 in Crl.A.No.842 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No.11772 of 2024
in Crl.A.No.842 of 2024

V.Krishnan,
S/o.Velu

... Petitioner

Vs.

State represented by
Inspector of Police,
Thiruvennainallur P.S.,
Villupuram District.
Crime No.157/2019.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(i) of Code of Criminal Procedure, to suspend the sentence imposed on the petitioner, made in Special SC.No.195 of 2019 dated 07.06.2024 by the Special Court for POCSO cases Villupuram and enlarge the petitioner on bail till the disposal of the criminal appeal.

For Petitioner : Mr.V.Pavel

For Respondent : Mr.R.Vinothraja,
Government Advocate (Crl. Side)



ORDER

This criminal miscellaneous petition has been filed to suspend the sentence of imprisonment imposed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases of Cases under POCSO Act, Villupuram in Special S.C.No.195 of 2019, dated 07.06.2024.

2.The conviction and sentence imposed on the petitioner in Special S.C.No.195 of 2019 is as follows:

- For offence under Section 9(f) r/w 10 of the Protection of Children from Sexual Offence Act, 2012, the petitioner is sentenced to undergo Rigorous Imprisonment for six years and to pay a fine of Rs.20,000/- in default to
- For offence under Section 376 r/w 511 of IPC, the petitioner is sentenced to undergo Rigorous Imprisonment for five years and to pay a fine of Rs.5,000/-, in default to undergo Rigorous Imprisonment for one year.
- For offence under Section 307 of IPC, the petitioner is sentenced to undergo Rigorous Imprisonment for seven years and to pay a fine of Rs.5,000/-, in default to undergo Rigorous Imprisonment for one year.
- For offence under Section 3(1)(w)(i) of SC/ST (POA) Amendment Act, the petitioner is sentenced to undergo Simple Imprisonment for six months and to pay a fine of Rs.10,000/- in default to undergo Simple Imprisonment for one month.



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3.The learned counsel for the petitioner submitted that on 08.03.2019, the petitioner as English Class Teacher was taking special coaching for 18 students studying 10th std. At that time, it is projected as though the petitioner hugged and kissed the victim girl/PW2 and she cried. On hearing the same, the parents of the petitioner lodged a complaint (Ex.P1) to the respondent Police. On coming to know about such incident, the villagers came and beaten the petitioner. The learned counsel further submitted that the petitioner not committed any such offence as alleged by the prosecution. On reporting of incident in the dailies, the District Child Protection Unit/Officer conducted enquiry on 12.03.2019, examined the witnesses and classmates of the victim girl. One student Vikram who was present in the staff room at the time of alleged occurrence, states that no such incident taken place as projected by the victim girl. When the District Child Protection Unit/Officer attempted to examine the victim girl, though her parents made her to come and sit, she was not cooperated with the enquiry. After enquiry on 04.05.2019, the District Child Protection Unit/Officer, Villupuram had given a report that the petitioner not committed any act against the minor student. The petitioner had also given detailed explanation at the time of questioning under Section 313 Cr.P.C and



he examined the District Child Protection Unit/Officer as DW1 and marked the report (Ex.D1). The Trial Court discarded the report (Ex.D1) for the reason that there is no provision under the Protection of Children from Sexual Offence Act, 2012 to conduct such enquiry. Since the victim girl was a minor and incident has come up in the paper, the District Child Protection Unit/Officer who has to protect the rights and welfare of minors, had immediately conducted enquiry and given a report. The report (Ex.D1) discarded by the Trial Court without any consideration is not proper. The petitioner gave explanation that he is an Achiever and he joined the school in the year 2014. From then on, he had been working hard for the school achievement ensuring that the school reached 100% pass and gained reputation for the school. Due to which, there was some animosity against the petitioner. The petitioner used to conduct special classes after school hours and on weekends. Playing cricket and consuming alcohol by locals got disturbed, hence locals objected and complained against the petitioner, due to which, the petitioner implicated in this case. Hence, prays for suspension of sentence.



4.The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that PW1 lodged a complaint (Ex.P1) to the respondent Police that he is an Agriculture Coolie and had three daughters, of which the third daughter is the victim girl. The victim child was studying 10th standard in Government High School at Sirumathurai Village of Thiruvannainallur Taluk. While so, the special classes were conducted in the evening time for the students especially the 10th standard students in view of the public examination at that time. In the mean time, on 08.03.2019, at about 07.30 p.m, special classes conducted in the above said school. When the victim girl/PW2 had gone to take the paper as instructed, the petitioner being English Teacher of that school who was present there instructed the victim girl/PW2 to come to staff room with the intention of sexual assault and when the victim girl/PW2 went to the staff room, petitioner embraced her, kissed on her cheek and forehead and committed sexual assault. On the complaint (Ex.P1), FIR (Ex.P9) in Crime No.157 of 2019 for offence under Sections 8 & 12 of the Protection of Children from Sexual Offence Act, 2012 and Section 354(A) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act on 08.03.2019. PW10/Inspector of Police went to the scene of occurrence, prepared Observation Mahazar (Ex.P10), Rough Sketch (Ex.P11) in the



presence of witnesses, examined the witnesses, recorded their statements, arrested the accused, recorded his confession statement, altered the offences under Section 8 and 12 of The Protection of Children from Sexual Offence Act, 2012 and Section 354(A) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act to Section 9(f) & 12 of The Protection of Children from Sexual Offences Act, 2012 and Section 354(A) IPC r/w Section 4 of The Tamil Nadu Prohibition of Harassment of Women Act. After completion of investigation, charge sheet filed before the Trial Court. During trial, on the side of the prosecution ten witnesses examined as PW1 to PW10 and twelve documents as Exs.P1 to P12. On completion of trial, the Trial Court rightly convicted the petitioner as stated above. Hence, prays for dismissal of the revision.

5.Considering the submissions and on perusal of the materials, it is seen that the petitioner joined the school in the year 2014 as English teacher and after he joined the school, the students improved themselves and the school achieved 100% pass. The petitioner was recognized for his hard work and achievements. The Lower Court discarding the report (Ex.D1) and evidence of DW2 is not proper. In the present case, the prosecution not examined the class



students of the school who are named in the report (Ex.D1) which was immediately after the occurrence. The witness examined are the family members and known persons to the victim girl/PW2. From Ex.D1, it is seen that the petitioner is an Achiever and no other students have complained against the petitioner. There is no reason for the petitioner to suddenly have a different behaviour and action. On considering the report (Ex.D1) and the evidence of DW1, this Court finds the conviction of the petitioner needs reconsideration.

6.Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the appeal and he 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.

7.Further, the petitioner shall appear before the Trial Court at 10.30 a.m., on the first working day of every English Calender month until the disposal of the criminal appeal and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under



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Section 317 Cr.P.C. and shall appear before the Trial Court on any other day on the same month in lieu of the date of his absence as directed by the Trial Court. Accordingly, this Miscellaneous Petition is ordered.

11.09.2024

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To

- 1.The Sessions Judge,
Special Court for Exclusive Trial of Cases under POCSO Act,
Villupuram.
- 2.The Inspector of Police,
Thiruvennainallur P.S.,
Villupuram District.
- 3.The Central Prison,
Cuddalore.
- 4.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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