



Crl.M.P.No.18266 of 2023 in Crl.A.No.1301 of 2023

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M.NIRMAL KUMAR, J.

This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed on the petitioner in Special S.C.No.166 of 2021 passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, 2012, Vellore, dated 03.10.2023, till the disposal of the main criminal appeal.

2.The conviction and sentence imposed on the petitioner is as follows:

- For offence under Section 5(l) and 5(n) r/w Section 6 of the Protection of Children from Sexual Offence Act, 2012, the petitioner to undergo Rigorous Imprisonment for twenty years and to pay a fine of Rs.5,000/- in default to undergo three months Simple Imprisonment.
- For offence under Section 294(b) of IPC, the petitioner to undergo Simple Imprisonment for three months and to pay a fine of Rs.500/- in default to undergo one month Simple Imprisonment.
- For offence under Section 366 of IPC, the petitioner to undergo Rigorous Imprisonment for one year and to pay a fine of Rs.5,000/- in default to undergo three months Simple Imprisonment.
- For offence under Section 506(ii) of IPC, the petitioner to undergo Rigorous Imprisonment for one year and to pay a fine of Rs.5,000/- in default to undergo three months Simple Imprisonment.



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3.The learned counsel for the petitioner submitted that the petitioner has been falsely implicated in this case which is admitted by the brother of the victim girl (PW2) who stated that there is good relationship between the petitioner's family and the victim girl's family. Infact the victim girl's family sent a complaint against the petitioner's brother who is employed in a Central Police Force. He further submitted that from which place, the petitioner took the victim girl is contradictory. Initially, in 164 Cr.P.C., statement (Ex.P2), the victim girl (PW1) stated that she was taken by the petition in his motor bike when she was standing near Panapakkam village bus stand. In her evidence, she stated that when she was proceeding to the school, she was taken to the lake area where the petitioner had penetrative sexual assault. Added to it, the alleged occurrence is said to have taken place on 04.09.2021, but the complaint lodged with a delay of four days on 08.09.2021. PW1 and PW2 stated that on the same day of the occurrence during night hours, PW1 had stomach pain. She was taken to Walaja Government Hospital where treatment was given. PW8, the Doctor of Walaja Government Hospital submits that the victim girl (PW1) was brought to the hospital on 07.09.2021 and from there the complaint (Ex.P1) was given to the respondent Police. PW2 stated that on the same day of the occurrence, after visiting the hospital, the complaint (Ex.P1) lodged. Hence, there was contradictions in lodging



the complaint (Ex.P1), which the trial Court failed to consider the same.

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4.The learned Government Advocate (Crl. Side) appearing for the respondent Police filed counter and submitted that at the time of occurrence, the victim girl (PW1) was aged about 14 years studying 9th std and the petitioner was aged about 44 years, a married man having two daughters. The petitioner is a relative paternal uncle of the victim girl (PW1). On 04.09.2021, at about 09.15 a.m., the victim girl (PW1) was waiting for the bus at her village bus stand to go to school at Panapakkam. At that time, the petitioner came there in a blue colour Hero Splendor Motor bike bearing Reg.No.TN 79 AY 2363. On seeing the victim girl (PW1), he approached her and told her that he would drop her in school. On the other hand, the petitioner took the victim girl to a lonely lake area and had penetrative sexual assault on her. Similarly, on the next day, when the victim girl (PW1) coming from market, the petitioner again took her to a secluded place and had committed penetrative sexual assault on her. Again, the petitioner took the victim girl to various places and committed penetrative sexual assault and also threatened her not to disclose the same. Based on the complaint (Ex.P1), an FIR in Crime No.16 of 2021 (Ex.P13) registered against the petitioner for offence under Section 5(1) r/w 6 of the Protection of Children from Sexual Offence Act, 2012 and Sections 294(b) and 506(i) of IPC on 08.09.2021. During the course of



investigation, the respondent Police visited the scene of occurrence, prepared Observation Mahazar (Ex.P14), Rough Sketch (Ex.P15), enquired the witnesses present in the scene of occurrence and recorded their statements, arrested the petitioner on 08.09.2021, produced the victim girl (PW1) and the petitioner for medical examination, received the medical certificates (Exs.P9 & P12) and after completion of investigation, filed charge sheet before the trial Court. During trial, on the side of the prosecution, fourteen witnesses examined as PW1 to PW14 and nineteen documents marked as Exs.P1 to P19 and one material object marked as MO1. On the side of the defence, no witness examined and no document marked. Based on the evidence of the prosecution witnesses supported by the medical version and the prosecution exhibits, the trial Court rightly convicted the petitioner as stated above. Hence, he strongly opposed this petition.

6.Considering the submissions and on perusal of the materials, it is seen that in this case, the victim girl (PW1) in her 164 Cr.P.C., statement (Ex.P2) as well as in her evidence clearly narrated the sequence of events. Further, the Doctor (PW8) recorded in the Accident Register (Ex.P8) as stated by the victim girl (PW1) and also confirmed that the victim girl was subjected to the penetrative sexual assault at the hands of the petitioner.



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7. In view of the above, this Court is not inclined to grant suspension of sentence to the petitioner. Accordingly, this Criminal Miscellaneous Petition stands dismissed.

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