



Crl.MP.No.20299 of 2023
in Crl.A.No.1669 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 06.06.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.20299 of 2023
in Crl.A.No.1669 of 2023

Vijaya

...Petitioner/A8

Versus

State Rep by
Inspector of Police,
W-13, All Women Police Station,
Washermenpet,
Chennai – 600 021.
(Cr.No.18/2020)

...Respondent/Complainant

Prayer:-Criminal Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed on the petitioner 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 appeal.



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For Petitioner : M/s.CK.Chandrasekaran
for Mr.V.Saravanan

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor
Assisted by
Mr.Aravind.C

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 26.09.2022 passed 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, and to enlarge the petitioner on bail pending disposal of the appeal.

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



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to have sexual intercourse with A10 to A22 from 29.08.2020 to 09.11.2020 and on various dates. The petitioner herein is arrayed as A8.

3. Heard the learned counsel for the petitioner [A8] and Mr.A.Gokulakrishnan, the learned Additional Public Prosecutor appearing for the respondent/State.

4. The learned counsel for the petitioner submitted that though it is alleged that the petitioner [A8] along with the other accused compelled the victim to have sexual intercourse with A10 to A22, there is no evidence let in to establish the said allegation; that the victim herself had not deposed anything against the petitioner; that the petitioner is in custody from 2020; and since the appeal is not likely to be taken up in the near future, sentence may be suspended.

5. The learned Additional Public Prosecutor, per contra, submitted that it is the prosecution case that the petitioner, along with the other



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accused, compelled the victim to have sexual intercourse with strangers and that the trial Court was right in convicting the petitioner and prayed for dismissal of the petition for suspension of sentence.

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

7. It is seen from the evidence of the victim, that apart from identifying the petitioner as the mother of the co-accused, namely Mageshwari [A6] she had not deposed anything against the petitioner. Admittedly, the petitioner was arrested on the confession of the co-accused, and there is no other evidence.

8. Considering the above facts, the fact that the petitioner is in custody from 2020, and the fact that 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 petitioner herein/A8.



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9. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment imposed on the petitioner/A8 alone 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, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai;
- (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 she is not able to appear before the trial Court on any day, she 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.



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

[M.S.R.,J.] [S.M.,J.]
06.06.2024

Internet: Yes

Issue order copy by 07.06.2024

Upload the order copy forthwith.

dk

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 for Women,
Puzhal – I, Chennai.

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



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M.S.RAMESH, J

and

SUNDER MOHAN, J

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