



Crl.M.P.No.19556 of 2023
in
Crl.A.No.1555 of 2023

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M.DHANDAPANI, J.

This criminal miscellaneous petition has been filed under Section 389(1) of Cr.P.C seeking to suspend the sentence of imprisonment imposed by the learned Sessions Judge, Mahila Court/Additional Special Court for Exclusive Trial of cases under POCSO Act, Coimbatore in Sessions Case No.27 of 2019 dated 30.10.2023 and enlarge the petitioner / appellant on bail pending disposal of the appeal.

2. Heard learned counsel on either side.

3. The petitioner / appellant was convicted for the offence under Sections 366 and 376(2)(g) of I.P.C. and sentenced to undergo 5 years imprisonment with a fine of Rs.1000/-, in default to undergo six months simple imprisonment in respect of the alleged offence under Section 366 of IPC and to undergo 10 years imprisonment with a fine of Rs.1000/-, in default to undergo six months simple imprisonment in respect of the alleged offence under 376(2)(g) of I.P.C. Before the case was committed to the Court of Sessions, A2 was reported dead and the charge was framed against



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the petitioner alone.

4.The case of the prosecution is that on 28.04.2006, when the victim was waiting for town bus at K.G.Chavadi bus stop, the petitioner and the deceased A2 came near to the Victim girl and under the guise of false promise that they will take her to meet her lover Chinnathangan @ Madeshwaran, they proceeded to Cauveri Hotel. Unfortunately, she did not found her lover in the said hotel. Thereafter, the accused forced the victim girl to drink alcohol and due to intoxication, the victim girl was in a dazed condition and she was in conscious, but without clearly knowing what was happening. Thereafter, both the accused took her to a dense forest and sexually abused her.

5. It is pertinent to note that the accused raped the defacto complainant, aged about 21 years at the time of occurrence and sexual offences against women, is increasing in the society. The menace to the society by such unscrupulous elements is more and whenever suspension of sentence is sought for this Court has to be very circumspect in granting suspension. Suspension has to be granted only if a *prima facie* case is made



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out, where contradictions, which are crucial in nature are pointed out. In the case on hand, such crucial contradictions have not been pointed out and in such view of the matter, suspending the sentence, as a matter of course, will set a bad precedent in the society. Therefore, this Court is not inclined to accede to the prayer of the appellant seeking suspension of sentence.

6. Hence, this Court is not inclined to suspend the sentence of imprisonment against the petitioner in Sessions Case No.27 of 2019 dated 30.10.2023 and accordingly, this criminal miscellaneous petition stands dismissed.

11.06.2024

msv

To

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1. The Sessions Judge,
Mahila Court/Additional Special Court for Exclusive Trial
of cases under POCSO Act,
Coimbatore.
2. The Public Prosecutor,
High Court of Madras.



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