



Crl.M.P.Nos.1219 & 1570 of 2024 in Crl.A.Nos.502 of 2021 & 304 of 2022

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**Crl.M.P.Nos.1219 & 1570 of 2024**  
**in**  
**Crl.A.Nos.502 of 2021 & 304 of 2022**

**S.M.SUBRAMANIAM, J.**  
**AND**  
**V.SIVAGNANAM, J.**

Both the Criminal Miscellaneous Petitions have been filed to suspend the sentence of imprisonment, imposed on the petitioners by the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Chennai in S.C.No.37 of 2015 dated 26.07.2021.

2. It is brought to the notice of this Court that the petition earlier filed seeking suspension of sentence in Crl.M.P.Nos.14024 of 2021 & 3560 of 2022 were dismissed by this Court. The finding by this Court in the earlier order reads as follows: 7 & 8, last paragraph....

" 7. We are unable to countenance this submission in light of the finding given by the Trial Court that "X" (PW2) has clearly identified the petitioner(A3 as one of the persons, who had sexually abused her. Moreover, we cannot re-appreciate the evidence of "X"(PW2) at this stage and the same can be done only at the time of the final disposal of the appeal.



8. *At this juncture, pertinent it is to point out that the Supreme*

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*Court, in **Sidhartha Vashisht @ Manu Sharma /vs/ State (NCT of Delhi)**, has considered **Kashmira Singh v. State of Punjab** and has held as follows :*

*" 30..... In the above cases, it has been observed that once a person has been convicted, normally, an appellate court will proceed on the basis that such person is guilty. It is no doubt true that even thereafter, it is open to the appellate court to suspend the sentence in a given case by recording reasons. But, it is well settled, as observed in Vijay Kumar (2002) 9 SCC 364: 2003 SCC (Cri) 1195: JT 2002 Supp (1) SC 60) that in considering the prayer for bail in a case involving a serious offence like murder punishable under Section 302 IPC, the Court should consider all the relevant factors like the nature of accusation made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the desirability of releasing the accused on bail after he has been convicted for committing serious offence of murder, etc. It has also been observed in some of the cases that normal practice in such cases is not to suspend the sentence and it is only in exceptional cases that the benefit of suspension of sentence can be granted. "*



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*In view of the above reasoning and also taking into consideration the serious nature of the allegations against the petitioner (A3), we are of the opinion that this is not a fit case to grant suspension of sentence and bail to the petitioner and accordingly, this criminal miscellaneous petition stands dismissed.*

3. Thus, we are not inclined to entertain the present petition and accordingly, both the Criminal Miscellaneous Petitions are dismissed.

List the Criminal Appeal for final hearing after one week.

[S.M.S., J.] [V.S.G., J.]  
19.10.2024

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