



CRL MP(MD) No.434 of 2024

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)**

Tuesday, the Twentieth day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.434 of 2024

in

CRL A(MD)NO. 48 of 2024

KARTHIK

... PETITIONER/ APPELLANT/ SOLE ACCUSED

Vs

**THE INSPECTOR OF POLICE
VALLAM POLICE STATION,
THANJAVUR DISTRICT.
CRIME NO.716 OF 2021.**

... RESPONDENT/RESPONDENT/COMPLAINANT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Sentence of Imprisonment imposed by the Learned Judge Principal Special Court for exclusive of POCSO Act Cases, Thanjavur District in Special Sessions Case No.12 of 2022 by the judgment dt.7.1.2023 and enlarge the Petitioner/Appellant on bail pending disposal of the above said Criminal Appeal.

PRAYER IN CRL A(MD)No. 48 of 2024:

Pleased to call for records and set aside the judgment and conviction dated 07.12.2023 by the Learned Sessions Judge Principal Special Court for exclusive trial of POCSO Act cases Thanjavurr district in Special Sessions Case No. 12/2022 and acquit the appellant.

Order : This Criminal Miscellaneous Petition [petition coming up for orders on this
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CRL MP(MD) No.434 of 2024

day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.EBENEZER CHARLES T.J., Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on him by the learned Sessions Judge, Principal Special Court for Exclusive Trial of POCSO Act Cases, Thanjavur, in Spl.S.C.No.12 of 2022 dated 07.12.2023 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. It is submitted by the learned counsel for the petitioner that a case has been registered against the petitioner in Crime No.716 of 2021, on the file of the respondent/Inspector of Police, Vallam Police Station, Thanjavur District, for the offences punishable under Sections 361 r/w. 363 of IPC and Section 6 of 'the Protection of Children from Sexual Offences Act, 2012' [hereinafter referred to as 'POCSO Act' for the sake of brevity] and Section 9 of Prohibition of Child Marriage Act and that the same was taken on file in Spl.S.C.No.12 of 2022 before the learned Sessions Judge, Principal Special Court for Exclusive Trial of POCSO Act Cases, Thanjavur. The petitioner was convicted and sentenced to undergo 5 years rigorous imprisonment and to pay a fine of Rs.60,000/- with one year rigorous imprisonment in case of default for offence under Section 363 of IPC, to undergo 20 years rigorous



CRL MP(MD) No.434 of 2024

imprisonment and to pay a fine of Rs.50,000/- with one year rigorous imprisonment in case of default for offence under Section 5(1) r/w. 6 of POCSO Act. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Criminal Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel for the petitioner submitted that the trial Court failed to note that the victim girl herself admitted in 164 statement that she had love affair with the petitioner, so she herself eloped with the petitioner and they lived at Thiruppur and the police secured both the victim and the petitioner from there. He further submitted that the age of the victim girl has not been proved by the prosecution. He further submitted that the trial Court failed to consider that the victim admitted her prior relationship with the petitioner and the victim did not alleged any incident of rape to the Doctor. At the time of occurrence, the petitioner was aged about 19 years and he is in jail from 07.12.2023. Hence, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned Additional Public Prosecutor appearing on behalf of the respondent vehemently opposed this petition informing that the allegations levelled against the petitioner/accused are serious in nature. At the time of occurrence, the victim girl was a minor and hence, prays to dismiss the petition.



CRL MP(MD) No.434 of 2024

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5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and perused the materials available on record.

6. This Court finds force in the submission of the learned counsel for the petitioner. Admittedly, the victim girl eloped with the petitioner and both had physical relationship. Based on the complaint lodged by the victim's father, a case was registered and on 08.10.2021, the petitioner and the victim girl were secured. Hence, this Court is of the prima facie view that there are arguable points involved in this Criminal Appeal. Moreover, the petitioner has been incarcerated from 07.12.2023 and further the Criminal Appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Sessions Judge, Principal Special Court for Exclusive Trial of POCSO Act Cases, Thanjavur, in Spl.S.C.No.12 of 2022 dated 07.12.2023 alone is suspended, subject to the following stringent conditions:-

i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two blood sureties each for a like sum to the satisfaction of

the learned Sessions Judge, Principal Special Court for Exclusive Trial of POCSO Act

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CRL MP(MD) No.434 of 2024

Cases, Thanjavur;

ii) 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 to ensure their identity;

iii) The petitioner shall appear and sign before the concerned Court daily at 10.30 a.m. and 5.30 p.m., till the disposal of the appeal.

iv) The petitioner shall furnish his residential address and mobile number to the Trial Court i.e., learned Sessions Judge, Principal Special Court for Exclusive Trial of POCSO Act Cases, Thanjavur.

8. Subject to the above conditions, this Criminal Miscellaneous Petition is allowed.

sd/-
20/02/2024

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22/02/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM
TO

1 THE SESSIONS JUDGE
PRINCIPAL SPECIAL COURT FOR EXCLUSIVE TRIAL
OF POCSO ACT CASES, THANJAVUR.

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CRL MP(MD) No.434 of 2024

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- 2 THE INSPECTOR OF POLICE
VALLAM POLICE STATION,
THANJAVUR DISTRICT.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.T.J.EBENEZER CHARLES, Advocate (SR-2081[I] dated 20/02/2024)

ORDER
IN
CRL MP(MD) No.434 of 2024
in
CRL A(MD)NO. 48 of 2024
Date :20/02/2024

PKP/22.02.2024/ 6P/ 6C

Madurai Bench of Madras High Court is issuing certified
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