



CRL MP(MD) No.3609 of 2023

WEB COPY

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

Wednesday, the Twenty Fifth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.3609 of 2023

in

CRL A(MD) No.160 of 2023

VINEETH

... APPELLANT/SOLE ACCUSED

Vs

1 THE INSPECTOR OF POLICE
VEERAVANALLUR POLICE STATION,
TIRUNELVELI DISTRICT.
CRIME NO. 97 OF 2017.

... RESPONDENT/COMPLAINANT

2 MURUGAN

... 2nd RESPONDENT

(R2 IS SUO-MOTU IMPLEADED AS PER ORDER OF THE COURT DT 02/03/2023
IN CRL.A(MD)160/2023)

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 imposed against the appellant in Spl.SC.No.38 of 2019 on the file of the Honble Sessions Judge,POCSO Special Court,Nagercoil dt.29.11.2022 and release him on bail till the disposal of the main Appeal.

Prayer in Crl.A(MD).160/2023:

Pleased to call for the entire records connected to the judgment in Spl.S.C.No.38 of 2019 on the file of the Hon`ble Sessions Judge, POCSO Special Court, Nagercoil dated 29.11.2022 and set aside the conviction and sentence imposed against the appellant.

<https://www.judic.tn.gov.in/judis>



CRL MP(MD) No.3609 of 2023

Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.ALAGUMANI R, Advocate for the petitioner and of Mr.M.SAKTHI KUMAR, Government Advocate(crl.side) on behalf of the 1st Respondent and Mr.P.GANAPATHY SUBRAMANIAN, Advocate /Legal Aid Counsel for the 2nd Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Sessions Judge, Special Court for POCSO Act Cases, Nagercoil, Kanyakumari District dated 29.11.2022, in Spl.S.C.No.38 of 2019 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.

2. The case of the prosecution is that the victim girl and the accused who is the petitioner herein, fell in love with each other and on 01.05.2017 at about 10.00 a.m., the accused along with the victim girl came to Veeravanallur bus stand and from there, she was kidnapped and taken her to Ambasamudram, thereafter to Guruvayur and stayed in a house in Thalaseri, where she was subjected to sexual intercourse and after that she was brought to Tiruppur and Madurai and etc., places where they stayed in several houses. During that period also she was subjected to sexual intercourse. But later, the accused started saying that the victim girl belongs to Scheduled Caste Community, so his parents may not agree for their marriage. On that basis of the complaint, a case in Crime No.97 of 2017 was registered.

3. Learned counsel for the petitioner would submit that the age of the victim



CRL MP(MD) No.3609 of 2023

girl is 17+ years at the time of occurrence, 20 days shorter for attaining majority.

WEB COPY

They fell in love with each other, thereafter they got married. However, conviction and sentence was imposed upon the petitioner for the offences under Section 366 of IPC and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.1000/-, in default to undergo three months rigorous imprisonment and also convicted under Section 6 of the Prevention of Children from Sexual Offences Act, 2012 and sentenced to undergo 20 years of rigorous imprisonment and to pay a sum of Rs.1,000/-, in default, to undergo one year rigorous imprisonment. The sentences were ordered to run concurrently. Set off under Section 428 Cr.P.C. is also ordered.

4. Learned Government Advocate(Crl.) would submit that even though the victim girl was aged about 17+ years at the time of occurrence, she was below 18 years. Enough material is available with the prosecution.

5. Perusal of records shows that the victim was aged about 17+ years she voluntarily went along with the petitioner to several places and stayed there and they were in physical relationship. Medical records also indicates that hymen was not intact. But this prima facie the evidence indicate that there is a love affair between them. But she had not attained majority on the date of occurrence. Whether the age of the victim was brought to the notice of the appellant on the date of occurrence is the only point to be considered in the appeal.



CRL MP(MD) No.3609 of 2023

WEB COPY

6. Having regard to the fact that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also considering the fact the petitioner are already enlarged on bail by the trial Court, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judge, Special Court for POCSO Act, Nagercoil, Kanyakumari District, and on further condition that the petitioner shall appear before the said Court once in a week at 10.30 a.m. pending appeal.

sd/-
25/09/2024

/ TRUE COPY /

25/09/2024
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNN
TO
1 THE SESSIONS JUDGE,
SPECIAL COURT FOR POCSO ACT CASES, NAGERCOIL,
KANYAKUMARI DISTRICT.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

<https://www.mhc.tn.gov.in/judis>



CRL MP(MD) No.3609 of 2023

3 THE INSPECTOR OF POLICE
VEERAVANALLUR POLICE STATION,
TIRUNELVELI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.DR.R.ALAGUMANI, Advocate (SR-11756[I] dated 25/09/2024)

ORDER
IN
CRL MP(MD) No.3609 of 2023
in
CRL A(MD) No.160 of 2023
Date :25/09/2024

SA/SAR. /25.09.2024/5P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.