



CRL MP(MD) No.1609 of 2024

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

Wednesday, the Sixth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

Crl.M.P.(MD) No.1609 of 2024
in
Crl.A(MD) No.864 of 2023

B.PRAVINKUMAR

... PETITIONER/ APPELLANT/
SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
KUMBAKONAM,
THANJAVUR DISTRICT.
CRIME NO. 13 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 imposed on the Petitioner/Appellant/Sole Accused namely Pravinkumar,S/o.Balakrishnan passed by the Learned Principal Special Court for Exclusive Trial of cases under the POCSO Act,Thanjavur in Spl.SC.No.52 of 2021 dt.10.5.2023 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

Prayer in Crl.A(MD) No.864 of 2023:

To call for the records related to the Special Sessions Case No.52 of 2021 on the file of the principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanajvur and set aside the Judgment dated 10.05.2023 and acquit the appellant/accused of all charges.



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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 MR.M.JEGADEESH PANDIAN, Advocate for the petitioner and of MR.R.SIVAKUMAR, Government Advocate(Crl.side) on behalf of the Respondent the court made the following order:-

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence passed against him by the learned Principal Special Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur, in Spl.S.C.No.52 of 2021 dated 10.05.2023 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. It is the case of the prosecution that on 01.05.2021, the petitioner/accused induced the victim girl and called her to his house with the sexual intention. Since, the petitioner is a distant relative of the victim girl, she went to his house. Thereafter, the accused had committed aggravated penetrative sexual assault upon the victim girl and by threatening her, he also sexually assaulted the victim girl on several occasions and thereby, she became pregnant. Based on a complaint, the respondent police registered FIR in Cr.No.13 of 2021 under Sections 5(l), 5(j)(ii), 6, 11 (iv), 12 of 'the Protection of Children from Sexual Offences Act, 2012' [hereinafter referred to as 'POCSO Act' for the sake of brevity] and 506(i) IPC against the



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petitioner/accused and that the same was taken on file in Spl.S.C.No.52 of 2021 before the learned Principal Special Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur. The trial Court has found the petitioner/accused guilty under Section 5(n) r/w 6 and 5(j)(ii) r/w 6 of POCSO Act and convicted and sentenced him to undergo 25 years Rigorous Imprisonment and to pay a fine of Rs.1,00,000/-, in default, to undergo Rigorous Imprisonment for a period of one year. Challenging the above said conviction and sentence, the petitioner has preferred the present Miscellaneous Petition seeking suspension of sentence.

3. Learned counsel for the petitioner submitted that the victim girl was aged about 17 years at that relevant point of time and there was love affair between her and the petitioner/accused. Furthermore, the alleged occurrence took place on 01.05.2021 and the complaint was lodged after a lapse of 84 days for which there was no proper explanation offered by the prosecution. Even in the evidence of the victim girl, it was categorically stated by her that she and the petitioner loved each other and due to the physical relationship between them, she got pregnant. The specific contention of the learned counsel for the petitioner is that the trial Court ought to have considered the evidence of the victim girl that both the accused and the victim girl had a love affair. He further submitted that the petitioner has been incarcerated



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for more than nine months and hence, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent vehemently opposed this petition informing that the petitioner deceived the victim girl and had penetrative sexual assault on her. Furthermore, this is the second application filed by the petitioner without any change of circumstances and hence, prays to dismiss the petition.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. side) appearing for the State and perused the materials available on record.

6. On due consideration of the facts and circumstances of the case and having meticulously perused the evidence on record, without expressing any opinion on merits of the case, 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



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sentence imposed by the learned Principal Special Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur, in Spl.S.C.No.52 of 2021 dated 10.05.2023 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 Principal Special Judge, Special Court for Exclusive Trial of Cases under POCSO Act, 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 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 ie., learned Principal Special Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur.



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

sd/-
06/03/2024

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08/03/2024
Sub-Assistant Registrar (CO)
Madurai Bench of Madras High Court,
Madurai - 625 023.

pkn

TO

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

2.THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
KUMBAKONAM,
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.M.JEGADEESH PANDIAN, Advocate (SR-2841[I] dated 06/03/2024)



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ORDER

IN

CrI.M.P.(MD) No.1609 of 2024

in

CrI.A(MD) No.864 of 2023

Date :06/03/2024

RK/ (08/03/2024) 7P / 6C

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