



CRL MP(MD) No.2695 of 2024

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

Monday, the Eighteenth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.2695 of 2024

IN

CRL A(MD)No. 180 of 2024

MATHANKUMAR

... PETITIONER/ APPELLANT/ SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
KALLIMANDHAIYAM POLICE STATION,
DINDIGUL DISTRICT.

CRIME NO.34/2019. ... 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 pass an order to Suspend the sentence imposed on the petitioner / appellant by means of a judgment dt.20.07.2023 made in Spl SC No.16/2023 on the file of the Honble Sessions Judge, Mahila Court (Fast Track) Dindigul forthwith and thereby enlarge the petitioner / appellant on bail, pending disposal of the above criminal Appeal.

PRAYER IN CRL A(MD)No. 180 of 2024:

Pleased to call for the records in Spl.S.C.No.16 of 2023 dated 20.07.2023 on the file of the Hon'ble Sessions Judge, Mahila Court (Fast Track) Dindigul and set aside the same.

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

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M/S.PRABAKARAN K, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Government Advocate (Criminal 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 Sessions Judge, Fast Track Mahila Court, Dindigul, in Spl.S.C.No.16 of 2023 dated 20.07.2023 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. The petitioner stands convicted for the offence punishable under Section 363 of IPC and sentenced to undergo R.I. for 3 years with fine of Rs.5,000/- with default condition and under Section 6 of 'the Protection of Children from Sexual Offences Act, 2012' [hereinafter referred to as 'POCSO Act' for the sake of brevity] to undergo R.I. of 10 years and to pay a fine of Rs.10,000/- with six months Simple Imprisonment in default. The period of sentence was ordered to run concurrently. Challenging the above said conviction and sentence, criminal appeal has been preferred before this Court. Pending appeal, this criminal miscellaneous petition has been filed seeking suspension of sentence.

3. Learned counsel for the petitioner submitted that it is a clear case of



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love affair between the victim girl and the petitioner. At the time of occurrence, the petitioner was aged 21 years and the victim girl was aged 16 years. The petitioner took the victim girl to his relative house under the guise of marrying her and committed aggravated penetrative sexual assault upon her. He submits that the prosecutrix went along with the petitioner on her own volition and stay with him as both are having love affair. Hence, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned Additional Government Pleader appearing on behalf of the respondent vehemently opposes the bail application and submits that the prosecution has proved that, at the time of occurrence, the victim girl has not completed 18 years and she is a minor girl. The victim girl has deposed that the accused has committed the aggravated penetrative sexual assault upon her and the same is corroborated by the evidence of P.W.9 (Doctor) 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.



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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 sentence imposed by the learned Sessions Judge, Fast Track Mahila Court, Dindigul, in Spl.S.C.No.16 of 2023 dated 20.07.2023 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, Fast Track Mahila Court, Dindigul;

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 learned Sessions Judge, Fast Track Mahila Court, Dindigul, on the first working day of every English calendar month at 10.30 a.m., until further orders; and

iv) The petitioner shall furnish his residential address and mobile number to the

Trial Court ie., learned Sessions Judge, Fast Track Mahila Court, Dindigul.

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

sd/-
18/03/2024

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21/03/2024
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PKN
TO

- 1 THE SESSIONS JUDGE
MAHILA COURT (FAST TRACK) DINDIGUL.
- 2 THE INSPECTOR OF POLICE
KALLIMANDHAIYAM POLICE STATION,
DINDIGUL DISTRICT.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.PRABAKARAN, Advocate (SR-3314[I] dated 18/03/2024)

ORDER
IN
CRL MP(MD) No.2695 of 2024
IN
CRL A(MD)No. 180 of 2024
Date :18/03/2024

PKP/21.03.2024/ 5P/ 6C
Madurai Bench of Madras High Court is issuing certified
copies in this format from 17/07/2023

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