



CRL MP(MD) No.4941 of 2023

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

Tuesday, the Twenty Fourth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.4941 of 2023

IN

CRL A(MD) No.238 of 2023

SELVAM

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
SEITHUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.
CRIME NO.108/2019

... RESPONDENT/RESPONDENT

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 operation and execution of sentence imposed by the Special Court for POCSO cases, Virudhunagar District at Srivilliputhur in Spl.S.C No.60/2019 dt.28.12.2022 till the disposal of appeal and may be pleased to enlarge the above Petitioner/ Appellant on bail till the disposal of pending appeal.

Prayer in CRL A(MD) No.238 of 2023:

To admit this appeal, to call for records, to set aside the judgment and conviction imposed against the Appellant/Accused No.1 by Special Court for POCSO cases, Virudhunagar District at Srivilliputhur in Spl S.C.No.60 of 2019 dated 28.12.2022 in so far as against the Appellant/Accused No.1 herein and allow the above appeal.



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Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.MARIAPPAN.G, Advocate for the petitioner and of MR.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner in Special SC No.60 of 2019, dated 28/12/2022 passed by the Sessions Judge, Special Court for POCSO Act cases, Virudhunagar District at Srivilliputhur and enlarge him on bail pending disposal of the Criminal Appeal.

2.The case of the prosecution in brief:-

The victim girl after completing her 10th standard was staying in the house. On 28/04/2019 at about 02.00 pm, she complained pain in her stomach, went to bath room and there was heavy bleeding. She was taken to the hospital. After medical examination, she was informed that foetus of four months was aborted. On enquiry, she revealed that the accused on the false promise of marriage subjected her to penetrative sexual intercourse. It is also informed that he gave medicine for aborting the child. Upon the occurrence, on the basis of the complaint given by the de-facto complainant, the mother of the victim girl, a case in Crime No.108 of 2019 was registered by the respondent police for the offence under sections 5(l), 5j(ii) r/w 6 of POCSO Act and section 4 of the Dowry Prohibition Act and 305 IPC.



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3.After completion of the investigation, the respondent police filed a final report and the same has been taken cognizance in Special SC No.60 of 2019 for the offences under sections 450, 313, 305 IPC r/w 5(l), 5j(ii) r/w section 6 (2 counts) POCSO Act and section 4 of Dowry Prohibition Act by the Sessions Judge, Special Court for POCSO Act cases, Virudhunagar District @ Srivilliputhur

4.On the side of the prosecution, 20 witnesses were examined and 25 documents were marked. Apart from that, 2 material objects were marked. On the side of the accused, no oral and documentary evidence was adduced.

5.At the conclusion of the trial process, the trial court found the petitioner guilty of the offences and sentenced him to undergo 2 years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 3 months SI for the offence under section 450 IPC; sentenced to undergo 2 years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default to undergo 3 months SI for the offences under section 313 IPC and also sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.2,000/- in default to undergo 6 months simple imprisonment for the offence under section 6 of Protection of Children from Sexual Offences Act, 2012 and directed



all the sentences to run concurrently.

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6.Challenging the conviction and sentence, this appeal is preferred by the appellant. Pending appeal, this criminal miscellaneous petition was taken out by the petitioner seeking suspension of sentence.

7.Heard both sides.

8.The learned counsel appearing for the petitioner would submit that the victim girl was aged about 17+ at the time of the occurrence and she was in love with the petitioner, that was not liked by her parents. So the complaint has been lodged.

9.Per contra, the learned Additional Public Prosecutor would submit that even though it is a love affair between the petitioner and the victim girl, the parents of the petitioner refused to perform marriage between the petitioner and the victim girl; the medicine which was provided to the victim has been recovered during the course of the investigation. So, no indulgence need be shown.

10.Reading of the evidence of PW1 shows that after she came to know about the



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occurrence, they made enquiry with A1. At that time, the parents of A1 namely A2 and A3 demanded 25 sovereigns of gold jewels and Rs.25,000/-, which was also supported by A1's relatives. Because of the above said the marriage proposal talk failed. No complaint was given immediately. Further reading of the evidence shows that the petitioner and the victim girl consumed poison. The victim girl died because of poisoning on 08/02/2019. It appears that the petitioner revived from poisoning.

11. Whether the petitioner is the cause for the suicide and whether the marriage proposal was stopped by the parents of A1 demanding jewels and the money are all the matters for consideration at the time of appeal.

12. Considering the above said facts, the period of incarceration and also considering the fact that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future, this criminal miscellaneous petition is allowed and the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that he shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the Sessions Judge, Special Court for POCSO Act Cases, Virudhunagar



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District @ Srivilliputhur and on further condition that the petitioner shall appear
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before the said court once in a week at 10.30 am until further orders.

sd/-
24/09/2024

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24/09/2024
Sub-Assistant Registrar (CS- IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO,

1.THE SESSIONS JUDGE, SPECIAL COURT FOR POCSO ACT CASES,
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR

2.THE INSPECTOR OF POLICE
SEITHUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.

3.THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.

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

+1 CC to M/s.G.MARIAPPAN, Advocate (SR-11645[I] dated 24/09/2024)



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ORDER
IN
CRL MP(MD) No.4941 of 2023
IN
CRL A(MD) No.238 of 2023
Date :24/09/2024

RK (24/09/2024) 7P / 6C

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