



Crl.MP(MD)No.3017 of 2024 in Crl.A(MD)No.204 of 2024

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G.ILANGOVAN, J

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner in Special SC No.47 of 2022, dated 18/01/2024 passed by the Additional Sessions Judge, Karur and enlarge him on bail pending disposal of the Criminal Appeal.

2.The case of the prosecution is that the de-facto complainant/victim girl lodged a complaint stating that she was studying +1 in the Government Higher Secondary School, Malaikovilur. On 02/05/2022, temple festival was conducted in the village. At that time, the accused participated in the temple festival. He compelled the victim girl to come along with him, forcibly she was taken to a nearby field and subjected to penetrative sexual assault. She was threatened not to disclose the same to anyone. On the basis of the complaint given by the de-facto complainant, a case in Crime No.15 of 2022 was registered by the respondent police for the offences under sections 366, 506(i) IPC r/w sections 3 and 4 of POCSO Act, 2012.

3.After completion of the investigation, the respondent police filed a final report and the same has been taken cognizance in Special SC No.47 of 2022 by the Additional Sessions Judge, Karur.



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4.On the side of the prosecution, 9 witnesses were examined and 12 documents were marked. Apart from that, one material object was marked. On the side of the accused, 2 witnesses were examined, but no document was marked.

5.At the conclusion of the trial process, the trial court found the accused guilty of the offences and sentenced him to undergo each 10 years rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo 1 year simple imprisonment for the offences under section 366 IPC and section 4 of POCSO Act; and also sentenced him to undergo 2 years imprisonment and to pay a fine of Rs.1,000/- in default to undergo 6 months simple imprisonment for the offence under section 506(i) IPC and directed all the sentences to run concurrently.

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 it is out and out love affair between the victim girl and the petitioner; They are also related to



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each other; But suppressing the above said love affair at the compulsion made by the parents, a false complaint has been given; He is referring to the evidence of the victim girl; She has stated during the course of the cross examination that after the occurrence, marriage proposal was made at the village level; But she denies that the above said proposal was made before the occurrence date. So, this itself indicates that there are some arguable points available to the petitioner herein. It is also seen that on the date of the occurrence, she was 16 +.

9.Per contra, the learned Government Advocate (Criminal side) would submit that at the time of the occurrence, the victim girl was aged about 16 years and the trial court has rightly convicted the petitioner. So, no indulgence need be shown.

10.Considering the above said facts and 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



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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 Additional
Sessions Judge, Karur and on further condition that the
petitioner shall appear before the said Court on the first
working day of every month at 10.30 am until further
orders.

20/09/2024

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Additional Sessions Judge,
Karur.
- 2.The Inspector of Police,
All Women Police Station,
Karur.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Superintendent,
Central Prison,
Trichy.



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