



CRL MP(MD) No.3729 of 2024

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

Wednesday, the Twenty Seventh day of March Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH
CRL MP(MD) No.3729 of 2024
in
CRL A(MD) No.778 of 2022

THEENATHAYALAN

... PETITIONER/ APPELLANT/ SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
THIRUVAIYARU,
THANJAVUR DISTRICT.
CR.NO.03/2018

... 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 Sentences of imprisonment imposed in special Sessions Case No.115/2019 dt 24.08.2022 on the file of the learned Special Court for Exclusive trial of cases under POCSO Act Thanjavur pending disposal of the above said criminal Appeal.

Prayer in CRL A(MD).778/2022 :

To call for the records in Special Sessions Case No.115 of 2019 on the file of the Learned Special Court for Exclusive Trial of Cases Under POCSO Act, Thanjavur, Thanjavur District and set aside the Judgment dated 24.08.2022 and Acquit the Appellant of the Charges leveled against him.

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.M.KRISHNAVENI, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-



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The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on him by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur, in Spl.S.C.No.115 of 2019 dated 24.08.2022 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. It is submitted by the learned counsel for the petitioner that a case has been registered against the petitioner/accused in Crime No.3 of 2018, on the file of the respondent/Inspector of Police, All Women Police Station, Thiruvaiyaru, Thanjavur District, for the offences punishable under Sections 341, 506(i), 366 of IPC and Section 5(1) r/w.6 of 'the Protection of Children from Sexual Offences Act, 2012' [hereinafter referred to as 'POCSO Act' for the sake of brevity] and the same was taken on file in Spl.S.C.No.115 of 2019 before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur. The petitioner was convicted and sentenced to undergo one months simple imprisonment and to pay a fine of Rs.500/- (Rupees Five Hundred only) with one week simple imprisonment in case of default for the offence under Section 341 IPC, to undergo two years rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) with three months rigorous imprisonment in case of default for the offence under Section 506(i) IPC, to undergo seven years rigorous imprisonment and to pay a fine of Rs.500/- (Rupees



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Five Hundred only) with one year rigorous imprisonment in case of default for the offence under Section 366 of IPC and to undergo 20 years rigorous imprisonment and to pay a fine of Rs.50,000/- (Rupees Fifty Thousand only) with one year rigorous imprisonment in case of default for the offence under Section 5(1) r/w. 6 of POCSO Act. Challenging the above said conviction and sentence, the petitioner has preferred the Criminal Appeal along with the present Criminal Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel appearing for the petitioner would submit that the trial Court failed to note that the prosecution failed to recover the two wheeler, which was drove by the victim during the alleged occurrence and the dress of the victim was also not recovered by the prosecution. He further submitted that prior to the occurrence the mother of the petitioner made a complaint against the family of P.W.1 before Budalur Police Station and the same was admitted by P.W.1 in his cross examination. Owing to which, P.W.1 made a false allegation against the petitioner through his daughter/P.W.2. He further submitted that the trial Court failed to note the vital discrepancies made in the deposition of witnesses and also that the prosecution has miserably failed to prove the charges beyond reasonable doubts. The petitioner is in judicial custody from 24.08.2022 and hence, the learned counsel prays for suspension of sentence of the petitioner. He further submitted that at the



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time of occurrence the petitioner was aged about 18 years old and the petitioner is a married man having two girl children and also having siblings namely, 5 sisters and one younger brother. The petitioner is the sole bread winner of his family. Hence, he prays to allow this petition.

4. The learned Additional Public Prosecutor appearing on behalf of the respondent vehemently opposed this petition informing that the allegations levelled against the petitioner/Accused are serious in nature. At the time of occurrence, the victim girl was a minor. It is not a case of love affair. He further submitted that the grounds raised by the learned counsel for the petitioner that he has got 5 sisters and he got married, which is not a reason for bail. He further submitted that the petitioner is in custody pursuant to the confirmation of conviction for a period of 20 years by the Court and hence, he strongly oppose to grant suspension and prays to dismiss the petition. This is the second bail application. The earlier application filed by the petitioner was dismissed as withdrawn on 20.03.2024.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and perused the materials available on record.

6. This Court finds force in the submission of the learned counsel for the petitioner. Even as per Accident Register, there is no injury and the victim has not



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raised any alarm and the conduct of the victim is suspicious and the victim aged about 15 years and the accused aged about 19 years was not proved by the prosecution and hence, this Court prima facie feels that that there are arguable points involved in this criminal appeal. Moreover, the petitioner has been in incarceration from 24.08.2022 and further the criminal appeal is not likely to be taken up for final hearing in the near future, 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, Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur, in Spl.S.C.No.115 of 2019 dated 24.08.2022 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, 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 and sign before the concerned Court daily at



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10.30 a.m. and 5.30 p.m., till the disposal of the appeal.

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(iv) The petitioner shall furnish his residential address and mobile number to the Trial Court i.e., learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur.

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

sd/-
27/03/2024

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28/03/2024

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM

TO

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

2 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,
THIRUVAIYARU, THANJAVUR DISTRICT.

3 THE SUPERINTEDENT, CENTRAL PRISON, TRICHY.

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

+1 CC to M/s.M.KRISHNAVENI, Advocate (SR-3788[I] dated 27/03/2024)



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ORDER
IN
CRL MP(MD) No.3729 of 2024
in
CRL A(MD) No.778 of 2022
Date :27/03/2024

RS//SAR-(28.03.2024) 7P 6C
Madurai Bench of Madras High Court is issuing
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