



CRL MP(MD) No.8825 of 2023

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

Monday, the Twenty Second day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.8825 of 2023

in

CRL A(MD) No.464 of 2023

SUMATHI

... Petitioner / Accused No.3

Vs

THE INSPECTOR OF POLICE
KARUR TOWN POLICE STATION,
KARUR DISTRICT.

(IN CRIME NO.1512 OF 2021.)

... 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 against the petitioner in Spl S.C No. 12 of 2022 on the file of the Honble Additional Sessions Judge, (Fast Track Mahila Court), Karur District dated 16.12.2022 and release the petitioner on bail till the disposal of the main appeal.

Prayer in CRL A(MD) No.464 of 2023:

To call for the entire records connected to the judgment in Spl.S.C.No.12 of 2022 on the file of the Additional Sessions Judge (Fast Track Mahila Court), Karur dated 16.12.2022 and set aside the conviction and sentence imposed against the appellant.

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



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of M/S.ALAGUMANI R, 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 her by the learned Additional Sessions Judge, (Fast Track Mahila Court) Karur District, in Spl.S.C.No.12 of 2022 dated 16.12.2022 and to enlarge her on bail, pending disposal of the Criminal Appeal.

2. It is the case of the prosecution that on 29.09.2021, P.W.2, who is the mother of the victim girl scolded her as she was always looking at her mobile phone without doing any household works. Subsequently, the victim girl left her home by saying that she was going to her friend's house and she did not return home. In such a situation, P.W.1 received a phone call from the victim girl number, wherein the mother of one Ramya who is the friend of the victim girl and a resident of Deivanangkurichi, Namakkal District informed that the victim girl was in their house and disconnected the call. Immediately, they went to Namakkal and searched for their daughter, but they could not find out the whereabouts of their daughter. Thereafter, the father/P.W.1 of the victim girl preferred a complaint before the respondent police and based on that complaint, a case has been registered for 'Girl Missing' in Crime No.1512 of 2021, on the file of the respondent/Inspector of Police, Karur Town Police Station, Karur. On investigation, it came to light that on



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29.09.2021, the son of the petitioner herein / A3 got married the victim girl with the assistance of the petitioner/A3 and accused No.2 at Putthumariamman Temple, knowing fully well that she is a minor girl. Thereafter, the accused No.2 and 3 provided shelter to the first accused in their house. During the stay, the first accused had sexual relationship with her. Based on the statement of the victim girl, the respondent police altered the FIR in Crime No.1512 of 2021 from 'Girl Missing' to Sections 366(A) of IPC and 5(l) and 6 of 'the Protection of Children from Sexual Offences Act, 2012' [hereinafter referred to as 'POCSO Act' for the sake of brevity] and Section 10 of Prohibition of Child Marriage Act and that the same was taken on file in Spl.S.C.No.12 of 2022 before the learned Additional Sessions Judge, (Fast Track Mahila Court) Karur District. The petitioner was convicted and sentenced to undergo 2 years Simple Imprisonment and to pay a fine of Rs.1,000/- with three months simple imprisonment in case of default for the offence under Section 10 of Prohibition of Child Marriage Act and to undergo 20 years rigorous imprisonment and to pay a fine of Rs.1,000/- with one year months simple imprisonment in case of default for the offence under Section 6 read with 17 of the POCSO Act, 2012. 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 there was love affair



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between the victim girl and the first accused. Both the victim girl and the first accused eloped together, married and lived together. Due to the physical relationship between them, she got pregnant and the same was terminated. 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 and they led a marital life together. The petitioner, who is the mother of the first accused, is an innocent person and she did not commit any offence as alleged by the prosecution. Hence, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned Government Advocate (Crl. Side) appearing on behalf of the respondent vehemently opposed this petition informing that the first accused deceived the victim girl under the pretext of marriage and thereby, she has become pregnant and subsequently, it was terminated considering the health condition and welfare of the victim. The petitioner being the mother of the first accused provided shelter to him in their house, knowing fully well that she is a minor girl 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. This Court finds force in the submission of the learned counsel for the petitioner. Admittedly, the first accused eloped with the victim girl and married her in the presence of the petitioner/ accused No.3 and the first accused had made physical relation with the victim girl. Moreover, the petitioner as a mother of the first accused has been in incarceration from 16.12.2022 and on due consideration of the facts and circumstances of the case and having meticulously perused the evidence on record, without expressing any opinion on the merits of the case, this Court is of the considered view that the petitioner/accused No.3 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 Additional Sessions Judge, (Fast Track Mahila Court) Karur District, in Spl.S.C.No.12 of 2022 dated 16.12.2022 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 Additional Sessions Judge, (Fast Track Mahila Court) Karur District;

ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy



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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 is directed to pay the fine amount immediately as directed by the trial Court in Spl.S.C.No.12 of 2022 dated 16.12.2022.

v) The petitioner shall furnish her residential address and mobile number to the Trial Court ie., learned Additional Sessions Judge, (Fast Track Mahila Court) Karur District.

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

sd/-
22/01/2024

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24/01/2024
Sub-Assistant Registrar (C.S. I)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM

To

1.The Additional Sessions Judge,
Fast Track Mahila Court,
Karur District.



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2.The Inspector of Police,
Karur Town Police Station,
Karur District.

3.The Superintendent,
Central Prison, Trichy.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.ALAGUMANI, Advocate (SR-866[I] dated 22/01/2024)

ORDER
IN
CRL MP(MD) No.8825 of 2023
in
CRL A(MD) No.464 of 2023
Date :22/01/2024

ED/ /SAR- (24/01/2024) 7P / 6C

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