



CRL MP(MD) No.3881 of 2024

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

Thursday, the Twenty Eighth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.3881 of 2024

in

CRL A(MD) No.268 of 2024

SATHEESHKUMAR

... Appellant / Accused

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
TALLAKULAM,
MADURAI DISTRICT.
(CRIME NO.14/2020)

... 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 of imprisonment imposed by the Learned Sessions Judge Special Court for Exclusive Trial of cases under the POCSO Act 2012 Madurai in Spl.SC.No.78/2020 dt 12.03.2024 and enlarge the petitioner appellant on bail pending disposal of the above said criminal appeal.

Prayer in CRL A(MD) No.268 of 2024:

To call for the records and set aside the conviction and sentence passed against them by the learned Sessions Judge, Special Court for Exclusive Trial of cases under the POCSO Act 2012, Madurai in SPL SC.No.78 of 2020 dated 12.03.2024 by allowing the present criminal appeal.



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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.DURAI PANDIAN.K.S, Advocate for the appellant and of Mr.R.SIVAKUMAR, Government Advocate (Crl. side) on behalf of the Respondent, while admitting the Criminal Revision, the Court made the following order:-

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, Madurai, in Spl.S.C.No.78 of 2020 dated 12.03.2024 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 in Crime No.14 of 2020, on the file of the respondent/Inspector of Police, All Women Police Station, Tallakulam, Madurai District, for the offences punishable under Sections 9(1) r/w. 10 and 11(iv) r/w. 12 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.78 of 2020 before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Madurai. The petitioner was convicted and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) with six months simple imprisonment in case of default for the offence under Section 7 r/w. 8 of POCSO Act and to undergo



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three years rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) with six months simple imprisonment in case of default for the offence under Section 11(iv) r/w. 12 of POCSO Act. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Criminal Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel for the petitioner submitted that the trial Court failed to see the contradiction and exaggerations of evidence of P.W.1 to P.W.3 regarding the occurrence that the accused sexually assaulted the victim girl on 02.02.2020. He further submitted that the trial Court failed to note that the statement recorded under Section 164 is based on after thought and concocted story to accuse the petitioner. There is no evidence to prove the charge levelled against the petitioner and the prosecution has not established its case beyond reasonable doubts. Furthermore, with an ulterior motive, a false complaint was lodged against the petitioner. The petitioner's sentence was suspended by the Court below till 10.04.2024. 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 allegations



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levelled against the petitioner/accused are serious in nature. At the time of occurrence, the victim girl was a minor 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.

6. This Court finds force in the submission of the learned counsel for the petitioner and hence, this Court is of the prima facie view that there are arguable points involved in this Criminal Appeal. Considering the fact that the petitioner's sentence was suspended till 10.04.2024 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, Madurai, in Spl.S.C.No.78 of 2020 dated 12.03.2024 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



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Court for Exclusive Trial of Cases under POCSO Act, Madurai;

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

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, Madurai.

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

sd/-
28/03/2024

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/04/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
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, Madurai.



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2.The Inspector of Police,
All Women Police Station,
Tallakulam, Madurai District.

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

+1 CC to M/s.DURAI PANDIAN.K.S, Advocate (SR-4015[I] dated 01/04/2024)

ORDER
IN
CRL MP(MD) No.3881 of 2024
in
CRL A(MD) No.268 of 2024
Date :28/03/2024

ED/ JGB /SAR- (10/04/2024) 6P / 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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