



CRL MP(MD) No.5057 of 2024

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

Tuesday, the Twenty Secondday of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.5057 of 2024

IN

CRL A(MD) No.402 of 2024

KALIMUTHU

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
BODI,
THENI DISTRICT.
(CRIME NO.2/2021)

... 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 execution of sentence made by the Learned Session Judge, Special Court for Exclusive Trial of POCSO Act Cases, Theni in Spl.SC.No.177/2023 dated 27/12/2023, enlarge the petitioner on bail till the disposal of the Criminal Appeal.

PRAYER IN CRL A(MD) No.402 of 2024:

Pleased to admit this appeal and call for the records and consequently set aside the Judgement passed by the Learned Sessions Judge, Special Court for Exclusive Trial of POCSO Act Cases, Theni District in Spl.S.C.No.177 of 2023 dated 27.12.2023 by allowing this appeal.

Order : This Criminal Miscellaneous Petition coming up for orders on this day,



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upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.NA.PALANIYANDI, Advocate for the petitioner and of Mr.M.SAKTHI KUMAR, Government Advocate(crl.side) on behalf of the Respondent, the Court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, 2012, Theni, in Spl.S.C.No.177 of 2023 dated 27.12.2023.

2. Learned counsel for the petitioner would submitted that the petitioner, who is the sole accused in this case, has been found guilty and convicted by the learned judge, for the offence under Section 6 of POCSO Act, 2012 and sentenced to undergo 20 years Rigorous imprisonment and to pay a fine of Rs.20,000/- and in default to undergo further period of 1 months simple imprisonment. Set off under Section 428 Cr.P.C. was also ordered.

3. The case of the prosecution is that the defacto complainant P.W.1 lodged a complaint stating that on 17.04.2021, at about 12 Noon, she sent the victim girl to buy sugar candy in a shop. Even after some time, the victim girl did not return to the house. So she went in search of the victim. Midway, the victim was brought by her sister-in-law Meena. On enquiry, the victim girl told her that when she was returning to home, the accused person took her to his house and sexually abused her by touching the private part of the victim girl. On the basis of the complaint



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given by the defacto complainant, a case was registered. After completing the investigation final report was filed.

4. Before the trial Court, on the side of the prosecution 14 witnesses have been examined, 10 documents were marked. On the side of the accused no witness was examined and no document was marked.

5. Challenging the above said conviction and sentence, appeal have been preferred by the petitioner / accused. Pending appeal, the petitioner has filed a petition seeking suspension of sentence.

6. Learned counsel for the petitioner would submit that there is a motive between the accused and P.W.1 and P.W.5. To wreck vengeance only, the false complaint has been given. But no motive was suggested to P.W.1. It has been simply put to her that the alleged place of occurrence is a crowded area. So there is no probability for the occurrence said to have been taken place. Simply because the accused is a prominent person in the village he has been implicated. The age of the victim is that she is studying only second standard. She has given evidence with regard to the sexual misconduct by this petitioner before the trial Court. Nothing was brought on record by the accused during the course of trial. Even the victim girl was not properly cross examined, it was simply suggested to her that the complaint has been given at the instance of her parents. No substantial defence was



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brought on record by the accused.

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7. Considering the manner in which the above said occurrence said to have been committed, this Court is not inclined to grant relief to the petitioner, exercising the discretionary power of this Court.

8. Accordingly, these Criminal Miscellaneous Petition is dismissed.

sd/-
22/10/2024

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/11/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNN

To

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

2 THE SUPERINTENDENT OF POLICE,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
BODI, THENI DISTRICT.

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



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+1 CC to M/s.NA.PALANIYANDI, Advocate (SR-12904[I] dated 22/10/2024)

ORDER
IN
CRL MP(MD) No.5057 of 2024
IN
CRL A(MD) No.402 of 2024
Date :22/10/2024

ED/ MMS /SAR- (04/11/2024) 5P / 6C

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