



Crl.MP(MD)No.4031 of 2024 in Crl.A(MD)No.278 of 2024

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G.ILANGOVAAN, J

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Sessions Judge, Principal Special Court for Exclusive Trial of cases under POCSO Act, 2012, in Special Sessions Case No.28 of 2018, dated 14/03/2024 and enlarge the petitioner/A2 on bail, pending disposal of the above said Criminal Appeal.

2.The case of the prosecution brief:-

On 23/11/2025 at about 05.15 pm, the victim girl studying 11th standard in Thirupuvanam Government Higher Secondary School was travelling in the TNSTC Bus to her native village. At that time, the accused namely juvenile Vijay teased the victim girl, misbehaved with her by pulling her shawl, caused assault and abused her in filthy language. On the basis of the complaint given by the de-facto complainant, a case in Crime No.219 of 2015 was registered by the respondent police for the offences under sections 294(b), 323, 506(ii) IPC and 7 r/w 8 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.28 of 2018 by the



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Sessions Judge, Principal Special Court for Exclusive Trial
of cases under POCSO Act, 2012, Sivagangai.

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4.On the side of the prosecution, 11 witnesses were examined and 9 documents were marked. On the side of the accused, 2 witness were witness was examined, but no document was marked.

5.At the conclusion of the trial process, the trial court found the accused guilty of the offence and sentenced him to undergo 3 months imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 2 weeks imprisonment for the offence under section 294(b) IPC; sentenced to undergo 2 years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo 1 month imprisonment for the offence under section 506(i) IPC; and sentenced to undergo 3 years rigorous imprisonment and to pay a fine of Rs.2,000/- in default to undergo 3 months imprisonment for the offence under section 11 r/w 16 of POCSO Act 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.

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8.The learned counsel appearing for the petitioner would submit that as per the case of the prosecution, no overtact was attributed attracting the offence under POCSO Act; the allegation is that he abetted the commission of offence to A1 and also misbehaved with the victim girl causing assault.

9.Per contra, the learned Government Advocate (Criminal side) would submit that sufficient evidence let by the prosecution before the trial court to convict the petitioner under sections 294(b), 506(ii) and section 11 r/w 16 of POCSO Act.

10.Section 16 of the POCSO Act reads as under:-

"16.Abetment of an offence.-A person abets an offence, who-

First-Instigates any person to do that offence; or

Secondly.-.....

Thirdly.-Intentionally aids, by any act or illegal omission, the doing of that offence."



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11.Section 7 of the POCSO Act reads as under:-

"7.Sexual assault.-Whoever, with sexual intent touches the vagina, penis, anus or breast of the child or makes the child touch in the vagina, penis, anus or breast of such person or any other person, or does any other Act with sexual intent which involves physical contact without penetration is said to commit sexual assault."

12.Whether the offence under sections 11 and 16 is attracted to the facts and circumstances of the case is the only point to be decided in the main appeal.

13.It is also seen that the petitioner and the victim girl are relatives. Soon-after the occurrence, the matter was taken to the parents and the parents also warned A1 and this accused. In-spite of the above said fact, it appears that they continued in teasing the victim girl.

14.But however, considering the fact that they are relatives, the judgment was rendered by the trial court on 14/03/2024 and also considering the period of incarceration



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and no bad antecedent is reported against the petitioner 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/A2 is directed to be enlarged on bail on condition 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 Sessions Judge, Principal Special Court for Exclusive Trial of cases under POCSO Act, 2012, Sivagangai 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.

23/08/2024

Index : Yes/No
Internet: Yes/No
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To,

- 1.The Sessions Judge,
Principal Special Court for
Exclusive Trial of cases under POCSO Act, 2012,
Sivagangai
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Inspector of Police,
Poovanthi All Women Police Station,
Sivagangai District.
- 4.The Superintendent,
Central Prison,
Madurai.



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