



CRL MP(MD) No.4840 of 2024

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

Wednesday, the Thirty First day of July Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA
and
The Hon`ble Mr.Justice K. RAJASEKAR

CRL MP(MD) No.4840 of 2024
in
CRL A(MD) No.837 of 2023

GURUSAMY

... Petitioner / Appellant

Vs

THE INSPECTOR OF POLICE
RAJAPALAYAM ALL WOMEN POLICE STATION,
VIRUDHUNAAGAR DISTRICT.
(CRIME NO.14/2022)

... 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 sentence passed in Spl.SC.No.119/2022 dated 17/5/2023 on the file of the Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur pending disposal of the above said Criminal Appeal.

Prayer in CRL A(MD) No.837 of 2023:

To call for the records relating to the judgment dated 17.05.2023 made in Sp. S.C.No.119 of 2022 on the file of the Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputtur and set aside the conviction and sentence imposed against the appellants/accused and allow above appeal by acquitting the accused.



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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 Mr.G.KANNAN, Advocate for K. M.KARUNAKARAN, Advocate for the petitioner and of Mr.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

The present petition has been filed by the appellant/accused to suspend the sentence imposed on him by the Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur in Spl.S.C.No.119 of 2022

2. The petitioner stands convicted and sentenced as under:

Section of Law	Sentence of imprisonment	Fine amount
Section 6 of POCSO Act	Life imprisonment	Rs.5000/- i/d to undergo six month simple imprisonment

3. The case of the prosecution is that the petitioner/accused who is the paternal grand father of the victim had committed penetrative sexual assault on the minor victim aged about seven years. Hence the case.

4. Learned counsel appearing for the petitioner would submit that the petitioner is the paternal grand father of the alleged victim. The mother of the victim had eloped with somebody and the victim and her brother were under the care and



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custody of the petitioner. P.W.1 who is the maternal aunt of the victim compelled the petitioner to execute settlement deed in favour of the children and there was a dispute between them on account of which P.W.1 had given a false complaint as if the petitioner had committed penetrative sexual assault. The medical evidence does not support the case of prosecution and absolutely there is no injuries found on the victim. He would further submit that the trial Court failed to take into consideration the material contradictions in the evidence of P.W.2/victim and her brother/P.W.3 and hence he seeks for indulgence of this court.

5. Learned Additional Public Prosecutor appearing for the respondent would submit that though the medical evidence does not support the case of prosecution the evidence of victim inspires confidence, thereby he would vehemently oppose for grant of bail to the petitioner.

6. Heard the learned counsel on either side and perused the materials available on record.

7. Taking into consideration the facts and circumstances of case and also the fact that the medical evidence does not support the case of the prosecution also having regard to the fact that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also considering the period of incarceration we are inclined to suspend the sentence



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imposed on the petitioner pending the Appeal.

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8. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment imposed on the petitioner herein alone is suspended pending the Appeal, subject to the following conditions:

- i. The petitioner is directed to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur
- ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Committal Court may obtain a copy of their Aadhar card or Bank passbook to ensure their identity.
- iii. The petitioner shall stay at Pudukottai and report before the Pudukottai Town Police station daily at 10.30 am., until further orders.



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iv. It is made clear that the petitioner shall not enter into the jurisdictional limits of the respondent Police Station until further orders.

sd/-
31/07/2024

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02/08/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

To

1.The Sessions Judge,
Special Court for POCSO Act Cases,
Virudhunagar District at Srivilliputtur.

2.The Inspector of Police,
Rajapalayam All Women Police Station,
Virudhunagar District.

3.The Superintendent,
Central Prison, Madurai.

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

Copy to:

The Inspector of Police,
Pudukkottai Town Police Station, Pudukkottai.



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+1 CC to M/s.K.M.KARUNAKARAN, Advocate (SR-9121[I] dated 31/07/2024)

ORDER
IN
CRL MP(MD) No.4840 of 2024
in
CRL A(MD) No.837 of 2023
Date :31/07/2024

ED/ /SAR- (02/08/2024) 6P / 7C

Madurai Bench of Madras High Court is issuing certified copies in this format from
17/07/2023