



CRL MP(MD) No.4472 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Friday, the Twenty Third day of August Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.4472 of 2024
in
CRL A(MD) No.344 of 2024

SELVARAJ @ VIKRAMAN

... Petitioner / Appellant

Vs

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

... 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 imposed by Special Court for POCSO Act Cases Nagercoil, Kanyakumari District in Spl.SC.No.31/2020 dated 26/3/2024 and enlarge the petitioner on bail till the disposal of Criminal Appeal.

Prayer in CRL A(MD) No.344 of 2024:

To call for the records relating to the conviction judgment and sentence passed by Special Court for POCSO Act Cases, Nagercoil, Kanyakumari District in special S.C.No.31 of 2020 dated 26.03.2024 and set aside the same and acquit 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 of M/s.K.P.NARAYANAKUMAR, 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:-



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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Special Court for POCSO Act cases, Nagercol, Kanyakumari District, in Special SC No.31 of 2020, dated 26/03/2024 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.

2.The case of the prosecution brief:-

The accused is the neighbour of the victim girl. She was aged about 11 years. On 27/03/2020, the victim girl went to garden to pluck the leaves for feeding the rabbit. At that time, the accused committed forcible sexual assault upon the victim girl. Upon the occurrence, a case in Crime No.14 of 2020 was registered by the respondent for the offences under sections under section 9(m), 9(1), 10 of POCSO Act and Section 506(i) IPC.

3.After completion of the investigation, the respondent police filed a final report and the same has been taken cognizance in Special SC No.31 of 2020 by the Sessions Judge, Special Court for POCSO Act Cases, Nagercoil.

4.On the side of the prosecution, 15 witnesses were examined and 13 documents were marked. On the side of the accused, no oral and documentary evidence was adduced.

5.At the conclusion of the trial process, the trial court found the petitioner guilty of the offence and sentenced him to undergo 5 years rigorous imprisonment



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and to pay a fine of Rs.10,000/-, in default, to undergo 6 months SI for the offence under section 9(m) r/w 10 of POCSO Act.

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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.

8.The learned counsel appearing for the petitioner would submit that there was a delay in lodging the complaint and the previous complaint lodged before the police was suppressed by the prosecution; As per the evidence of PW1, the first complaint was given on 27/03/2020; Enquiry was conducted by the Police twice; PW5 has also spoken about the complaint lodged on 27/03/2020; Since the earlier complaint was suppressed by the prosecution, the genesis of the occurrence is doubtful.

9.The learned Government Advocate (Criminal side) would submit that the victim was aged about 11 years and this petitioner misbehaved with the victim on various dates. In-spite of warning, he has not corrected himself. The evidence of the victim girl also recorded and that was correctly considered by the trial court.

10.The victim girl during the course of 164 Cr.P.C Statement has also spoken about the occurrence that took place on 27/03/2020. In the midway, another



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neighbour namely Anisa enquired the same and he picked up quarrel with the accused. On the previous occasion also, he misbehaved with her. She deposed the very same thing before the trial court.

11.PW4 is the another neighbour, also corroborated the victim evidence. She has corroborated the evidence of victim girl with regard to the chasing of the victim girl by the accused in the place of occurrence. The evidence of PW4 was believed by the trial court, since no motive was suggested to her. She has also spoken about the subsequent occurrence, in which the accused assaulted her father, compelling not to give evidence against him.

12.So when prima facie material are available, I am of the considered view that this is not the fittest case to exercise the discretionary power in favour of the petitioner. So, I find no reason to suspense the sentence.

13.In the result, this criminal miscellaneous petition is dismissed.

sd/-
23/08/2024

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/09/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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To

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1.The Sessions Judge,
Special Court for POCST Act Cases,
Nagercoil, Kanyakumari District.

2.The Inspector of Police,
All Women Police Station,
Marthandam, Kanyakumari District.

3.The Superintendent,
Central Prison, Palayamkottai.

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

ORDER

IN

CRL MP(MD) No.4472 of 2024

in

CRL A(MD) No.344 of 2024

Date :23/08/2024

ED/ JGB /SAR- (07/09/2024) 5P / 5 C

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