



CRL MP(MD) No.4715 of 2024

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

Tuesday, the Third day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.4715 of 2024

IN

CRL A(MD) No.368 of 2024

KRISHNAN

NOW CONFINED AT CENTRAL PRISON,
MADURAI.

... APPELLANT/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
KODAIKANAL,
DINDIGUL DISTRICT.
CRIME NO.191/2023.

... 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 imposed against in Spl.SC.No.191/2023 dated 14/3/2024 passed by the learned Spl.Court (POCSO Act Cases), Dindigul and enlarge the petitioner on bail pending disposal of the above appeal.

PRAYER in CRL A(MD) No.368 of 2024:

To call for the records in Spl.SC.No.191 of 2023 dated 14.03.2024 passed by the learned Special Court(POCSO Act Cases), Dindigul and to set aside the same.

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



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of Mr.G.KARUPPASAMPANDIYAN, 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 against the petitioner in Special SC No.191 of 2023, dated 14/03/2024 passed by the Special Court for POCSO Act case, Dindigul and enlarge him on bail pending disposal of the Criminal Appeal.

2.The case of the prosecution is that the victim girl was aged about 12 at the time of the occurrence, born on 06/10/2011. The accused is a neighbour aged about 51. The victim girl is suffering from epilepsy. 10 days prior to the complaint, she complained pain in her stomach and fits. She was taken to the Rajaji Government Hospital, Madurai, on 22/09/2022. On examining the child, the de-facto complainant the mother of the victim girl was informed that she is pregnant for five months. On enquiry, the child informed the parents that on 21/04/2022, she was forcibly taken to the house of the accused, tied her hands and committed sexual assault by force and made criminal intimidation. On 28/09/2022, the child aborted and discharged from the hospital on 10/10/2022. On the basis of the complaint, a case in Crime No.4 of 2022 was registered by the respondent police for the offences under sections 342, 506(ii) IPC and section 5(i), 5(j)(ii), 5(m) r/w 6 of the POCSO Act.



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3. After completion of the investigation, the respondent police filed a final report and the same has been taken cognizance in Special SC No.191 of 2023 by the Sessions Judge, Special Court (POCS Act cases), Dindigul.

4. On the side of the prosecution, 19 witnesses were examined and 15 documents were marked. On the side of the accused, 4 witnesses were examined, but one document was marked.

5. At the conclusion of the trial process, the trial court found the petitioner is guilty of the offences and sentenced him to undergo 1 years rigorous imprisonment and to pay a fine of Rs.500/-, in default, to undergo 3 months SI for the offence under section 342 IPC; sentenced to undergo 2 years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo 6 months SI for the offences under section 506(ii) IPC and sentenced to undergo 20 years rigorous imprisonment and to pay a fine of Rs.2,000/- in default to undergo 1 year simple imprisonment for the offence under section 6 of the 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



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petitioner seeking suspension of sentence.

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7.Heard both sides.

8.The learned counsel appearing for the petitioner would submit that DNA profiling test of the foetus does not tally with that of the petitioner; In spite of the above said clear scientific notification, the trial court on the basis of the evidence of the victim girl convicted and sentenced to undergo the sentences as stated above; According to him, when DNA profiling does indicate that the petitioner is not a biological father of the foetus, opportunity may be given to him to argue the main appeal on merits. Pending the main appeal, in the facts and circumstances of the case, he may be given suspension of sentence.

9.Per contra, the learned Government Advocate (Criminal side) would submit that DNA profiling excluded the petitioner from the paternity of the foetus. The victim girl spoken clearly the involvement of the petitioner.

10.So, in the above said circumstances, whether the trial court was in right in believing the uncorroborated testimony of the victim, either scientifically or orally is the only point to be considered by this court in the main appeal.



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11.Considering the above said facts 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 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, Special Court for POCSO Act Cases, Dindigul District and on further condition that the petitioner shall stay away from the occurrence place and stay in Trichy and report before the Judicial Magistrate No.1, Trichy daily at 10.30 am until further orders.

sd/-

03/09/2024

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

ER



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TO

- 1 THE JUDGE,
SPECIAL COURT(POCSO ACT CASES), DINDIGUL
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, KODAIKANAL,
DINDIGUL DISTRICT.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

- 1 THE JUDICIAL MAGISTRATE NO.I, TRICHY.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY.

+1 CC to M/s.G.KARUPPASAMY PANDIYAN, Advocate (SR-10779[I] dated 03/09/2024)

ORDER

IN

CRL MP(MD) No.4715 of 2024

IN

CRL A(MD) No.368 of 2024

Date :03/09/2024

SS/VR/SAR- /04/09/2024/6P/8C

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