



Crl.MP(MD)No.5014 of 2024 in Crl.A(MD)No.395 of 2024

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G.ILANGOVAN, J

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Sessions Judge, Fast Track Mahila Court, Virudhunagar @ Srivilliputhur, in Special Sessions Case No.40 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 victim girl was aged about 17+ at the time of the occurrence. The accused is a neighbour. Because of the neighbourhood, the accused developed intimacy with the victim girl stating that he is loving her. In the course of time, the victim girl also started moving with the accused. That was brought to the notice of the parents. Both were condemned and the victim girl was admitted in the hostel. But however, the relationship continued even during that time. On 16/01/2020, the accused kidnapped the victim girl out of the lawful guardian and taken her to his sister's house, stayed there and during that time, the accused subjected her to penetrative sexual intercourse. A complaint was given by the parents stating that girl is missing. On coming to know that, the victim was taken by the accused to the police station and dropped in the



midway. Upon the occurrence, a case in Crime No. 15 of 2020 was registered by the respondent police for the offence under sections 363 IPC and section 5(1) r/w 6 of POCSO Act.

3.After completion of the investigation, the respondent police filed a final report and the same has been taken cognizance in Special SC No.40 of 2020 by the Sessions Judge, Fast Track Mahila Court, Virudhunagar District @ Srivilliputhur.

4.On the side of the prosecution, 17 witnesses were examined and 14 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 accused guilty of the offences and sentenced him to undergo 7 years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 6 months RI for the offence under section 363 IPC; sentenced to undergo 20 years rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo 1 year rigorous imprisonment for the offence under section 5(1) r/w 6 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.The learned counsel appearing for the petitioner would straightaway draw the attention of this court to the statement of the victim as well as the evidence before the trial court. He would submit that the statement clearly indicates that both were in love. That was not liked by the parents and marriage was arranged to the girl with some other boy and now they are settled in life. According to him, there is no intention on the part of the petitioner to commit the penetrative sexual assault upon the victim girl. The victim girl was matured enough to know the affairs because, she was aged 17 + 9 months, short of three month for majority. But, it appears that their relationship was not liked by the parents. Because of that, trouble has arisen between them.

8.Per contra, the learned Government Advocate (Criminal side) would submit that sufficient evidence was let by the prosecution before the trial court to convict the petitioner for the offences stated above.



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9.Considering the fact that the victim girl got married and the period of incarceration 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 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, Fast Track Mahila Court, Viridhunagar District @ Srivilliputhur 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,
Fast Track Mahila Court,
Virudhunagar District @ Srivilliputhur..
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Inspector of Police,
Thalavaipuram Police Station,
Virudhunagar District.
- 4.The Superintendent,
Central Prison,
Madurai.



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