



Crl.MP(MD)No.6329 of 2024 in Crl.A(MD)No.540 of 2024

Crl.MP(MD)No.6329 of 2024 in Crl.A(MD)No.540 of 2024

G.ILANGOVAN, J

WEB COPY

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Special Court for Exclusive Trial of cases under POCSO Act, Thoothukudi, in Special SC No.52 of 2020, dated 05/03/2024 and to enlarge the petitioner on bail pending disposal of the criminal appeal.

**2.The case of the prosecution brief:-**

The de-facto complainant lodged a complaint stating that the victim girl is studying 10th standard in Ettaiyapuram Government Higher Secondary School. On 26/05/2020 at about 03.30 pm, she was sent for purchasing grocery from the accused shop. After 15 minutes, she returned to the house by crying. On enquiry, she has stated that the accused misbehaved with her sexually when she fell dizziness. Upon the occurrence, a case in Crime No. 153 of 2020 was registered by the respondent police for the offence under section 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.54 of 2019 by the Sessions Judge, Special Court for POCSO Act Cases, Thoothukudi.



Crl.MP(MD)No.6329 of 2024 in Crl.A(MD)No.540 of 2024

4.Before the trial court, on the side of the prosecution, 16 witnesses were examined and 12 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 offence under section 8 of POCSO Act, 2012 and sentenced him to undergo 3 years RI and to pay a fine of Rs.10,000/- in default to undergo 6 months RI.

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 even as per the case of the prosecution, the victim girl suffered or felt dizziness, only at the time, the accused gave water and consoled her; except that, nothing has happened as projected by the prosecution.



Crl.MP(MD)No.6329 of 2024 in Crl.A(MD)No.540 of 2024

9.Per contra, the learned Government Advocate (Criminal side) would submit that at the time of the occurrence, the victim girl was a minor girl and the trial court has rightly convicted the petitioner. So, no indulgence need be shown.

10.Reading of the evidence of the victim girl does indicate that this petitioner committed penetrative sexual assault upon her.

11.A suggestion was made to PW1 that an information given by the victim girl to PW1 was misunderstood by him and went to the shop and assaulted him; To escape from the above said assault only, the present false case has been lodged. This itself indicates the fact that the victim girl went to the shop of this petitioner to purchase grocery. But according to him, he consoled the victim, as mentioned above, he supplied water when she was suffering dizziness.

12.Whether any mistake has been committed by the trial court in reading the evidence is a matter for consideration at the time of main appeal.



Crl.MP(MD)No.6329 of 2024 in Crl.A(MD)No.540 of 2024

13.Considering the above said fact and also considering the fact that the judgment was of the recent origin, this court is not inclined to exercise the discretionary power in favour of the petitioner by granting suspension of sentence.

**14.**In the result, this miscellaneous petition is **dismissed.**

**19/09/2024**

Index : Yes/No  
Internet: Yes/No  
er

To,

- 1.The Sessions Judge,  
Special Court for Exclusive Trial  
of cases under POCSO Act,  
Thoothukudi.
- 2.The Inspector of Police,  
Ettayapuram Police Station,  
Thoothukudi District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



WEB COPY



Cr1.MP(MD)No.6329 of 2024 in Cr1.A(MD)No.540 of 2024

G.ILANGOVAN, J.,

er

Cr1.MP(MD)No.6329 of 2024 in Cr1.A(MD)No.540 of 2024

19.09.2024