



CRL MP(MD) No.5312 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Wednesday, the Twenty Second day of May Two Thousand and Twenty Four
PRESENT

The Hon`ble Mrs.Justice S.SRIMATHY

CRL MP(MD) No.5312 of 2024
in
CRL A(MD) No.434 of 2024

MUTHU

... PETITIONER/APPELLANT

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PUDUKOTTAI,
PUDUKOTTAI DISTRICT.
CRIME NO.08/2022.

... 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 imposed on petitioner by the Learned Mahila Court, Pudukottai in Spl.S.C.No.51 of 2022 dt.02.05.2024 and enlarge petitioner on bail pending disposal of the Criminal Appeal.

PRAYER in CRL A(MD) No.434 of 2024:

To call of the records and set aside the judgment dated 02.05.2024 made in Spl.S.C.No.51 of 2022 on the file of the Learned Mahila Court, Pudukottai.

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.R.PARANJOTHI, Advocate for M/S.KBS LAW OFFICE, Advocate for the petitioner and of MR.A.THIRUVADIKUMAR, Additional Public Prosecutor on behalf of the Respondent while admitting the Criminal Appeal., the Court made the following order:-



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This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner/sole accused by the learned Sessions Judge, Mahila Court, Pudukkottai in Spl.S.C.No.51 of 2022, dated 02.05.2024, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that on 31.01.2022, the petitioner/sole accused trespassed into the house of the victim girl and sexually assaulted the victim girl and he has also threatened the victim girl and her parents that if they informed others or give complaint, he will kill them and afraid of the same, they did not give complaint immediately. Thereafter also, the petitioner threatened the victim girl and her mother and that therefore FIR came to be registered in Crime No.8 of 2022 for the offences under Sections 9(l), 9(n) r/w 10 of POCSO Act altered into Sections 9(n) r/w 10, 11(iv) r/w 12 of POCSO Act and Section 506(1) IPC.

3. The respondent police, after completing the investigation, has filed the final report and the case was taken on file in Spl.S.C.No.51 of 2022 and the same was pending on the file of the Mahila Court, Pudukkottai.

4. During trial, the prosecution has examined 5 witnesses as P.W.1 to P.W.5 and exhibited 10 documents as Ex.P.1 to Ex.P.10. The accused has examined 5 witnesses as D.W.1 to D.W.5 and adduced no documentary evidence.

5. The learned Sessions Judge, upon considering the evidence both oral and



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documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 02.05.2024 finding the petitioner guilty for the offences under Sections 448 and 506(1) IPC and Sections 7 r/w 8 of POCSO Amendment Act, 2019 and ordered to pay a fine of Rs.1,000/-, in default, to under simple imprisonment for 3 months for the offence under Section 448 IPC and sentenced him to undergo rigorous imprisonment for 2 years for the offence under Section 506(1) IPC and to undergo rigorous imprisonment for 3 years and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for 3 months for the offence under Sections 7 r/w 8 of POCSO Amendment Act 2019 and that the above sentences were ordered to be run concurrently. Challenging the above said conviction and sentence, the accused has preferred the present Criminal Appeal along with the above miscellaneous petition for suspension of sentence.

6. The learned counsel appearing for the petitioner would submit that the trial Court acquitted the petitioner for the offences under Sections 11(i)(iv) r/w 12 of POCSO Amendment Act 2019.

7. The learned counsel appearing for the petitioner would further submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution



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witnesses. He would further submit that the petitioner has already paid fine amount.

8. The learned Additional Public Prosecutor appearing for the respondent would submit that the trial Court has already suspended the sentence imposed on the petitioner for a period of one month.

9. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and also perused the materials available on record.

10. The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains 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 and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

11. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:-

(i) The petitioner 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 learned Sessions Judge, Mahila Court, Pudukkottai;



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(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the concerned Court on all working days at 10.30 a.m., for a period of one month and thereafter appear before the concerned Court once in a month at 10.30 a.m., until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-
22/05/2024

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/05/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM

TO

1 THE SESSIONS JUDGE,
MAHILA COURT, PUDUKOTTAI.



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2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PUDUKOTTAI,
PUDUKOTTAI DISTRICT.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/S.KBS LAW OFFICE, Advocate (SR-5658[I] dated 23/05/2024)

ORDER
IN
CRL MP(MD) No.5312 of 2024
in
CRL A(MD) No.434 of 2024
Date :22/05/2024

SS/VR/SAR- /28/05/2024/6P/5C

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