



Crl.MP(MD)No.9448 of 2024 in Crl.A(MD)No.735 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, Special Court for POCSO Act cases, Dindigul in Special SC No.252 of 2023, dated 11/03/2024 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 15 at the time of the occurrence. On 01/02/2023, she did not return to the house from the school. So, a complaint was lodged on that date under Ex.P1. On the basis of the complaint, a case was registered under the caption 'girl missing'. During the course of the investigation, it was found that on 30/01/2023, when she was returning from the school, the accused person approached her stating that he is loving her and her parents may separate them. So, she was taken to the friend's house under the false promise of marriage. On 30/01/2023, she was subjected to sexual intercourse forcibly promising to marry and thereafter, he was taken to the Samayapuram, where she was also subjected to forcible sexual intercourse. When the accused came to know that a case was registered, she was sent to the native place through bus. Upon the above said occurrence, a case in



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Crime No.69 of 2023 was registered by the respondent for the offence under section 366 IPC and section 5(1) r/w 6 of the 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.252 of 2023 by the Sessions Judge, Special Court for POCSO Act cases, Dindigul.

4.On the side of the prosecution, 23 witnesses were examined and 16 documents were marked. On the side of the accused, one witness was examined, but no document was marked.

5.At the conclusion of the trial process, the trial court found the petitioner guilty of the offences and sentenced him to undergo 5 years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 3 months SI for the offence under section 366 IPC and sentenced to undergo 20 years of rigorous imprisonment and to pay a fine of Rs.2,000/- in default to undergo one year RI for the offence under section 6 of the POCSO Act, 2012 and directed 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.Heard both sides.

8.The learned counsel appearing for the petitioner would submit that even though the victim girl was aged about 15+ at the time of occurrence, it was a love affair between them and consensual relationship. But this contention cannot be accepted, since the age of 15 is not the age for deciding the marital relationship. So, this argument cannot be accepted. He would further submit that after the occurrence, there was a proposal between the two families to perform the marriage to them, after the victim attains majority. Now she is aged about 17 +.

9.The parents of the petitioner are also present before this court and made enquiry. The mother of the petitioner has stated that even though, they are willing to perform the marriage, the mother of the victim is not willing. Because of that only, they could not carry forward the proposal. Still they are waiting for the positive answer from the parents of the victim girl. After attaining the majority, they are ready to perform the marriage.



Crl.MP(MD)No.9448 of 2024 in Crl.A(MD)No.735 of 2024

10. So without going into the other aspects and recording the statement of the parents of the petitioner, 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, Dindigul 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.

20/09/2024

Index : Yes/No
Internet: Yes/No

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To,

- 1.The Sessions Judge,
Special Court for POCSO Act cases,
Dindigul.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Inspector of Police,
Batlagundu Police Station,
Dindigul District.
- 4.The Superintendent,
Central Prison,
Madurai.



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Cr1.MP(MD)No.9448 of 2024 in Cr1.A(MD)No.735 of 2024

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20.09.2024