



CRL MP(MD) No.6217 of 2024

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

Wednesday, the Tenth day of July Two Thousand and Twenty Four

PRESENT

**The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA
and
The Hon`ble Mr.Justice K. RAJASEKAR**

**CRL MP(MD) No.6217 of 2024
in
CRL A(MD)No. 905 of 2023**

SELVAM

... PETITIONER/ APPELLANT

Vs

**THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
VILATHIKULAM,
THOOTHUKUDI DISTRICT.
CR.NO.6/2019**

... 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 enlarge the petitioner on bail by suspending the sentence imposed by the Special Court for POCSO Act cases, Thoothukudi, in Spl.SC.No.80/2019 by judgment dt 31.07.2023 pending the disposal of the main Criminal appeal on the file of this Hon'ble Court.

PRAYER IN CRL A(MD)No. 905 of 2023:

Pleased to call for the records in the judgment of the Special Court for POCSO Act cases, Thoothukudi in Spl.S.C.No 80 of 2019 by judgment dated 31.07.2023 and set aside the same.



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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 M/S.RAMASAMY.S, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

The present petition is filed seeking for suspension of sentence imposed on the petitioner/accused by the Special Court for POCSO Act Cases, Thoothukudi in Spl.S.C.No.80/2019 by judgment dated 31.07.2023.

2. The Trial Court convicted and sentenced the accused as follows:

Section of law	Sentence of Imprisonment	Fine amount
11(6) r/w 12 of POCSO Act, 2012	Three years rigorous imprisonment	Rs.1000/- in default to undergo one month simple imprisonment
3(d) r/w 4 of POCSO Act, 2012	Seven years rigorous imprisonment	Rs.5000/- in default to undergo three months simple imprisonment
Section 5(l), (n), (j)(ii) r/w 6 of POCSO Act, 2012	Life imprisonment	Rs.10,000/- in default to undergo six months simple imprisonment

3. The learned counsel appearing for the petitioner would submit that the as regards the evidence of P.W.1 to P.W.4, there are various contradictions with regard to the lodging of complaint, which creates doubt in the case of the prosecution. The



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Trial Court, without taking into consideration the discrepancies found in the evidence of the witnesses, has convicted the accused and thereby, he seeks for grant of suspension of sentence.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondent would submit that it is a case of penetrative sexual assault. The petitioner/accused, who is the husband of the paternal aunt of the victim girl, had committed penetrative sexual assault on the victim girl, who was aged about 14 years at the time of occurrence. Due to the sexual assault, the victim girl became pregnant and it was aborted. However, the DNA report, which was marked as Ex.P13 before the Trial Court, proves that the petitioner is responsible for the pregnancy of the victim girl. The Trial Court, based on the evidence placed on record, had rightly convicted the petitioner and thereby, he prays for dismissal of the suspension of sentence application.

5. Heard the learned counsels on both sides and perused the materials available on record.



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6. We find that it is not a fit case for grant of suspension of sentence. Hence, the Criminal Miscellaneous Petition is dismissed.

sd/-
10/07/2024

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/07/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

LM

TO

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



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ORDER
IN
CRL MP(MD) No.6217 of 2024
in
CRL A(MD)No. 905 of 2023
Date :10/07/2024

PKP/JGB/SAR /19.07.2024/ 5P/ 5C

Madurai Bench of Madras High Court is issuing certified
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