



CRL MP(MD) No.6456 of 2024

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

Thursday, the Twenty Fourth day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.6456 of 2024

in

CRL A(MD) No.550 of 2024

THASAN @ DHASAN

... Appellant / Sole Accused

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION
KANYAKUMARI.

(IN CRIME NO.26/2019).

... 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 suspend the sentence imposed by the learned Special Court for Exclusive Trial of cases under POCSO Act, Nagercoil, Kanyakumari in Spl.SC.No.2/2020 dated 16/4/2024 and enlarge the appellant accused on bail pending disposal of the main appeal.

Prayer in CRL A(MD) No.550 of 2024:

To call for records and follow this appeal and acquit the appellant from the charges by setting aside the impugned judgment passed by the learned Special Court for Exclusive trial of cases under POCSO Act, Nagercoil, Kanyakumari in Spl.S.C.No.2 of 2020 dated 16.04.2024.



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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.G.ANTO PRINCE, Advocate for the petitioner and of Mr.M.SAKTHI KUMAR, Government Advocate (Crl.s ide) on behalf of the Respondent, the Court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner by the learned Special Court for Exclusive Trial of cases under POCSO Act, Nagercoil, Kanyakumari, Theni, in Spl.S.C.No.2 of 2020 dated 16.04.2024.

2. Learned counsel for the petitioner would submitted that the petitioner, who is the sole accused in this case, has been found guilty and convicted by the learned judge, for the offence under Section 9(l), 9(m) read with 10 of the POCSO Act and sentenced to undergo 5 years Rigorous imprisonment and to pay a fine of Rs.20,000/- and in default to undergo further period of 6 months simple imprisonment. Set off under Section 428 Cr.P.C. was also ordered.

3. The case of the prosecution is that the accused is a neighbour of the first victim. She was born on 20.03.2008, aged about 11 years at the time of occurrence. She was studying 7th standard. The second victim was born on 04.08.2006 who is aged about 13 years at the time of occurrence. On 04.11.2019 at about 7 p.m., in the



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evening, the first victim went to the shop of the accused for purchasing sugar candy.

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At that time, she was subjected to sexual abuse that the accused has pressed the victim girl's breast and committed the offence. Similarly, in the month of September, the second victim girl, when she went to purchase sugar candy at the shop of the accused, she was also subjected to sexual abuse as mentioned above, by the accused. On the basis of the complaint given by the defacto complainant, a case was registered. After completing the investigation final report was filed.

4. Before the trial Court, on the side of the prosecution 7 witnesses have been examined, 17 documents were marked. On the side of the accused two witnesses were examined and no document was marked.

5. Challenging the above said conviction and sentence, appeal have been preferred by the petitioner / accused. Pending appeal, the petitioner has filed a petition seeking suspension of sentence.

6. Learned counsel for the petitioner would submit that there was a delay of two days in lodging the complaint. On the date of the complaint, the wife of the petitioner was taken by the police which was also admitted by P.W.3. There was a motive between P.W.3 and the accused. When the petitioner was working as a Village head, she was working as a sweeper in the church. She was removed from the employment. That incident occurred some one year prior to the present



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occurrence. According to the learned counsel for the petitioner, because PW.3 was removed by this petitioner, to wreck vengeance, a false complaint has been given. Apart from that it is also submitted that the opponent of this petitioner who were elected in the new election, joined together and misused P.W.3 child.

7. Learned Government Advocate (Crl.side) would submit that eventhough the petitioner has stated that a false complaint has been given by misusing P.W.3 child, but even other child was also subjected to sexual abuse by this petitioner. The motive are not properly established with regard to the other child. According to him, the finding recorded by the trial Court was on proper evidence. No indulgence may be shown.

8. We can straightaway go to the victims' statement ignoring the evidence of P.W.3 and the contention raised by the petitioner before this Court at the time of argument. The evidence of the victim girl does not suffer from any untrust worthiness. Whether those victims evidence can be believed is a matter for consideration in the appeal.

9. I find absolutely no reason to exercise the discretionary power of this Court in favour of this petitioner, considering the age of the victims and the manner in which the offence said to have been committed.



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10. Accordingly, these Criminal Miscellaneous Petition is dismissed.

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24/10/2024

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/11/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNN

To

- 1.The Sessions Judge,
Special Court for Exclusive trial of cases under POCSO Act,
Nagercoil, Kanyakumari.
- 2.The Inspector of Police,
All Women Police Station,
Kanyakumari.
- 3.The Superintendent,
Central Prison,
Palayamkottai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
CRL MP(MD) No.6456 of 2024
in
CRL A(MD) No.550 of 2024
Date :24/10/2024



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ED/ MMS /SAR- (04/11/2024) 6P / 5C

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