



CRL MP(MD) No.6698 of 2024

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

Tuesday, the Twenty Fourth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL.M.P.(MD)No.6698 of 2024

in

Crl.A(MD)No.565 of 2024

RAJESH

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
MANDAPAM POLICE STATION,
RAMANATHAPURAM,
CRIME NO.46/2020

... 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 Fast Track Mahila Court, (Mahaleer Neethimandram) Ramanathapuram in Spl.SC.No.32/2021 dt 30.04.2024 pending disposal of the main appeal and release the petitioner on bail.

Prayer in Crl.A(MD)No.565 of 2024:

Pleased to call for Records and set aside the impugned Judgment passed by the Learned Fast Track Mahila Court (Mahaleer Neethimandram) Ramanathapuram in Spl.SC.No.32 of 2021 dated 30.04.2024 by allowing this appeal and acquit the appellant from the charges.

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

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Mr.O.R.GOKUL ABIMANYU, Advocate for M/S.C.ARULVADIVEL ASSOCIATES, for the petitioner and of Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Fast Track Mahila Court, (Mahaleer Neethimandram), Ramanathapuram in Spl.SC.No.32 of 2021 dated 30.04.2024 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.

2. The case of the prosecution is that P.W.1 is the victim girl who was aged about 15 years at the time of occurrence. On 16.02.2020 at about 12 noon, the victim girl along with other children are playing near the house. At that time, the accused came there, forcibly took the victim girl to a old house committed penetrative sexual assault. On the basis of the above said incident, a case in Crime No.46 of 2020, under Section 450, 336, 376(AB) IPC and Section 5(m) read with Section 6 of the POCSO Act.

3. The learned counsel for the petitioner submitted that the petitioner has been convicted by the learned trial judge, for the alleged offence under Section 222(2) of Cr.P.C., and for the offence under Section 9(m) read with 10 Protection of Children from Sexual Offences Act and sentenced to undergo Rigorous imprisonment for 5 years and to pay a fine of Rs.2000/- in default to undergo simple imprisonment for 2 months. The period already undergone by the accused during the investigation and

trial is ordered to be set off under Section 428 of Cr.P.C.,



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4. Seeking suspension of sentence this petition has been filed by the petitioner stating that the story projected by the prosecution is not believable since admittedly there was a civil dispute between the parents of the victim girl and the accused. He refers the evidence of P.W.2, on that issue. Further submitted that the victim girl herself has improved the story, from the statement given by her under Section 164 of Cr.P.C., and during the evidence before the trial Court. It is not clearly identified that the accused who has committed the above said offences during the course of statement under Section 164 of Cr.P.C.

5. Per contra, learned Additional Public Prosecutor would submit that there is enough materials available against the petitioner.

6. With regard to the age of the child, it was supported by the medical evidence, therefore no interference is called for. No doubt that the victim girl was not able to identify the accused during the course of statement under Section 164 of Cr.P.C. But during the course of evidence, she has clearly identified the accused. Whether there was any civil issue between the parties and because of the civil issue such a false case has been foisted, is a matter for consideration in the appeal. The medical officer namely P.W.8 has not find out any abnormality in the private parts of the victim girl. But evidence of P.W.2 shows that the victim girl is informed her about the sexual assault made by the accused.



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7. Considering the above submission, this Court is not inclined to exercise the discretionary power of this Court, in favour of the petitioner. Accordingly, this Criminal Miscellaneous Petition is dismissed.

sd/-
24/09/2024

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/10/2024
Sub-Assistant Registrar
(C.S.I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNN
TO

1 THE FAST TRACK MAHILA JUDGE,
(MAHALEER NEETHIMANDRAM),
RAMANATHAPURAM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
MANDAPAM POLICE STATION,
RAMANATHAPURAM,

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,

MADURAI

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ORDER
IN
CRL.M.P.(MD)No.6698 of 2024
in
Crl.A(MD)No.565 of 2024
Date :24/09/2024

SA/VR/SAR. /09.10.2024/5P/5C

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