



CRL MP(MD) No.6714 of 2024

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

Thursday, the Fourth 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.6714 of 2024
in
CRL A(MD) No.441 of 2023

CHANDRAMOHAN

... Petitioner / Petitioner / Appellant

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
ARUPPUKOTTAI,
VIRUDHUNAGAR DISTRICT
(CRIME NO.40 OF 2013)

... Respondent / 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 Special Court for Prevention of Children from Sexual Offences Act, Virudhunagar District camp at Srivilliputhur by its judgment dt 03.09.2023 in SC.No.21/2013 and enlarge the petitioner on bail pending disposal of the above criminal appeal.

Prayer in CRL A(MD) No.441 of 2023:

To call for the records pertaining to the impugned judgment in Special S.C.No.21 of 2020 dated 03.09.2022, on the file of the Special Court for Prevention of Children from Sexual Offences Act Cases, Virudhunagar Camp @ Srivilliputhur and set aside the same by allowing this appeal and acquitting the appellant.



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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.ARUL JENIFER.A, Advocate for the petitioner and of Mr.R.MEENAKSHI SUNDARAM, 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.]

Seeking to suspend the sentence imposed on the petitioner by the learned Special Judge for Prevention of Children from Sexual Offences, Virudhunagar Camp at Srivilliputhur, vide Judgment dated 03.09.2022 in Spl.S.C.No.21 of 2020, he has filed this criminal miscellaneous petition.

2. The petitioner stands convicted and sentenced as under:

Section of Law	Sentence of imprisonment	Fine amount
4 of POCSO Act, 2012	To undergo life imprisonment	Rs.10,000/-, in default to undergo one year simple imprisonment.

3. The case of the prosecution is that the victim girl was aged 15 years and was working in a Private Textiles Company at Aruppukkottai. She used to return back from work at 10.00 p.m. The petitioner / accused was a friend of her brother and also known to her. On the fateful day i.e. on 06.12.2023, at about 10.00 p.m., while the victim girl was returning back from work, the petitioner called her



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and went near her and grabbed her dress. When the victim girl shouted loudly, the accused gagged her mouth immediately and took her to an under construction building near Aabcard Church, where he had committed forcible sexual assault on her.

4. Learned counsel for the petitioner would submit that the Trial Court erred in believing the evidence of the prosecutrix (P.W.1). It the case of P.W.1 / victim girl that the petitioner had assaulted her and thereafter had taken her to a place under construction and committed forcible sexual assault on her. The medical evidence does not support the case of prosecution version. The victim girl was subjected to medical examination after two days of the date of occurrence. The Doctor, who had conducted medical examination on the victim girl, has not noted any injuries suggesting forcible sexual intercourse. Further, the incident is said to have happened at Velmurugan Colony in a Village, where there were several houses. The victim girl, in her statement, has also stated that she had raised hue and cry. If the incident had happened as projected by the prosecutrix, it would have been known to the people in the vicinity. However, P.Ws.4 and 5, who are stated to be residents of the locality, have not supported the case of the prosecution. Further he would submit that though P.W.3, neighbour of the victim girl, had supported the prosecution case in her chief-examination, during cross-examination, she had resiled



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from the statement made by her in the chief-examination. He would further submit that the Trial Court had failed to take into consideration the defence documents filed by the petitioner. The petitioner was aged about 22 years at the time of occurrence and he has no bad antecedents and that he is in incarceration for the past two years. Further, there are several arguable points in favour of the petitioner and the likelihood of the appeal being taken up for final hearing in the near future is also not possible and therefore, he prayed for suspension of sentence.

5. The respondent – Police has filed a detailed counter affidavit.

6. Learned Additional Public Prosecutor appearing for the respondent – Police, on instructions, would submit that the evidence of the prosecutrix is cogent. P.W.2, mother, and P.W.3, a neighbour of the victim girl, have supported the prosecution case, thereby, he would object for grant of bail to the petitioner.

7. Heard the learned counsel on either side and perused the materials available on record.

8. Having gone through the records, we are of the opinion that it is a fit case for grant of suspension of sentence to the petitioner.

9. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment alone imposed on the petitioner herein is suspended, subject to the following conditions:



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- i. The petitioner is directed to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Special Judge for Prevention of Children from Sexual Offences, Virudhunagar Camp at Srivilliputhur.
- ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Committal Court may obtain a copy of their Aadhar card or Bank passbook to ensure their identity.
- iii. The petitioner shall appear before the learned Trial Judge at 10.30 a.m., once in a week, until further orders.

sd/-
04/07/2024

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05/07/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

KRK



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To

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1.The Special Judge for Prevention of Children from Sexual Offences,
Virudhunagar Camp @ Srivilliputhur.

2.The Inspector of Police,
All Women Police Station,
Aruppukottai,
Virudhunagar District.

3.The Superintendent,
Central Jail, Madurai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.A.ARUL JENIFER, Advocate (SR-7410[I] dated 04/07/2024)

ORDER

IN

CRL MP(MD) No.6714 of 2024

in

CRL A(MD) No.441 of 2023

Date :04/07/2024

ED/ /SAR- (05/07/2024) 6P / 6C

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