



CRL MP(MD) No.6887 of 2024

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

Tuesday, the Ninth day of July Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL MP(MD) No.6887 of 2024

in

CRL A(MD)No. 580 of 2024

SELVARAJ

... APPELLANT/SINGLE ACCUSED

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
KOVILPATTI,
THOOTHUKUDI DISTRICT,
CRIME NO.11/2019

... RESPONDENT/COMPLAINANT

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 passed by learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Thoothukudi in Spl.SC.No.05/2020 dt 14.06.2024 enlarge the petitioner/accused on bail pending disposal of above Crl.Appeal.

PRAYER IN CRL A(MD)No. 580 of 2024:

Pleased to call for the records and set aside the judgment passed by the Learned Sessions Judge, Special Court for Exclusive Trial of cases under Pocso Act, Thoothukudi in Spl.s.C.No. 05/2020 dated 14/06/2024 and acquit the appellant herein.

Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the

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CRL MP(MD) No.6887 of 2024

arguments of MR.N. MOHIDEEN BASHA, Advocate for the petitioner and of MR.B.THANGA ARAVINDH, on behalf of the Respondent, while admitting the Criminal appeal, the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the petitioner to suspend the following sentence of imprisonment imposed against him in Spl.S.C.No.05 of 2020 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi, by the judgment dated 14.06.2024, impugned in the above appeal in CrI.A.(MD). No.580 of 2024:

Sl.No.	Offence under Section	Sentence of imprisonment	Fine	Default sentence
1	294(b) of IPC	Three months of imprisonment	-	-
2	506 (ii) of IPC	Acquitted u/s.235 (1) Cr.P.C		
3	12 of Protection of Children from Sexual Offences Act, 2012	Three years of rigorous imprisonment	Rs.10,000/-	One week of simple imprisonment

2. The case of the prosecution is that on 05.12.2018 at about 02.07p.m., the victim child was alone in her house, at that time, the accused came there and asked the victim to come out of the house. When the victim girl opened the door, the accused abused the victim girl in filthy language and also criminally intimidated her. Therefore, the victim girl given complaint to the respondent police and the respondent Police registered a case in Crime No.11 of 2019 for the offences under



CRL MP(MD) No.6887 of 2024

Sections 294(b), 506 (ii) of IPC and Section 12 of Protection of Children from the sexual Offences Act, 2012. After investigation, the final report was filed and the final report was taken on file by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi, in Spl.S.C.No.05 of 2020 The learned trial Judge, after completed all the legal formalities conducted the trial.

3. During the trial, the prosecution has examined 15 witnesses as P.W.1 to P.W.15 and exhibited 6 documents as Ex.P.1 to Ex.P.6. However, neither a witness was examined nor a document was exhibited on the side of the accused.

4. The learned trial Judge, after considering the evidence, documents and material objects, convicted the petitioner/appellant and sentenced to undergo 3 months simple imprisonment for the offence under Section 294(b) of IPC and to undergo 3 years Rigorous Imprisonment for the offence under Section 12 of Protection of Children from Sexual Offences Act, 2012 and to pay a sum of Rs.10,000/- as fine, in default to undergo 1 week simple imprisonment. Challenging the same, the petitioner filed the above appeal along with the suspension of sentence.

5. It is the case of the petitioner that the FIR was registered with delay and the investigating agency has not considered the fact that several complaints and the civil suits are pending between the parties. In view of that, the petitioner has prima facie case of succeeding in the appeal. Hence, he seeks for suspension of sentence.



CRL MP(MD) No.6887 of 2024

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6. The learned Government Advocate (Crl. Side) on the other hand submitted that the manner of the occurrence that took place is to be considered in this case. The petitioner abused the victim girl in filthy language and also criminally intimidated her. Considering the above, he seeks for dismissal of the suspension of sentence petition.

7. In reply to the said argument, the learner Counsel for the petitioner submitted that the petitioner was confined in Central Prison, Palayamkottai and he is inside the jail from 14.06.2024 and hence, he seeks for the suspension of sentence.

8. This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record and also the impugned judgment.

9. Considering the facts and the circumstances of this case and also the petitioner was inside the jail from 14.06.2024. Apart from that, as argued by the learned counsel for the petitioner there was a delay in registering the case and also there are arguable points in the above appeal and hence, this Court inclines to suspend the sentence of the imprisonment with the following conditions:

(i) The petitioner 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 Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi;



CRL MP(MD) No.6887 of 2024

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(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
09/07/2024

/ TRUE COPY /

12/07/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA

TO

- 1 THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, THOOTHUKUDI.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
KOVILPATTI,
THOOTHUKUDI DISTRICT,



CRL MP(MD) No.6887 of 2024

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- 3 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO
THE SECTION OFFICER, (CALL FOR ORIGINAL RECORDS)
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.N.MOHIDEEN BASHA, Advocate (SR-7647[I] dated 09/07/2024)

ORDER
IN
CRL MP(MD) No.6887 of 2024
in
CRL A(MD)No. 580 of 2024
Date :09/07/2024

PKP/12.07.2024/ 6P/ 7C
Madurai Bench of Madras High Court is issuing certified
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