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

Friday, the Eighth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.11283 of 2023

in

CRL A(MD)No.690 of 2023

SEKAR

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
KULITHALAI,
KARUR DISTRICT.
(CRIME NO.30/2021).

... 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 of Imprisonment imposed by the Learned Additional Sessions Judge, Karur in Special Sessions Case No.18/2022 by the Judgement dated 28/6/2022 and enlarge the petitioner/appellant on bail, pending disposal of the above said Crl.A.

PRAYER in CRL A(MD)No.690 of 2023:

To call for the record and set aside the Judgment and Conviction dated 28.06.2022 by the Learned Additional Sessions Judge, Karur made in Special Sessions Case No.18 of 2022 and acquit the Appellant.



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 Mr.T.J.EBENEZER CHARLES, Advocate for M/S.SARAVANAKUMAR P, Advocate for the petitioner and of Mr.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on him by the learned Additional Sessions Judge, Karur, in Spl.S.C.No.18 of 2022 dated 28.06.2022 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. It is submitted by the learned counsel for the petitioner that a case has been registered against the petitioner in Crime No.30 of 2021, on the file of the respondent/Inspector of Police, All Women Police Station, Kulithalai, Karur District, for the offences punishable under Section 366 of IPC, Sections 9 and 6 of 'the Protection of Children from Sexual Offences Act, 2012' [hereinafter referred to as 'POCSO Act' for the sake of brevity] and the same was taken on file in Spl.S.C.No.18 of 2022 before the learned Additional Sessions Judge, Karur. The petitioner was convicted and sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) with one year simple imprisonment in case of default for the offence under Section 366 of IPC, to undergo 2 years



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rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) with three months simple imprisonment in case of default for the offence under Section 9 of POCSO Act and to undergo 20 years rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) with one year simple imprisonment in case of default for the offence under Section 6 of POCSO Act. Challenging the above said conviction and sentence, the petitioner has preferred this Criminal Appeal along with the present Criminal Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel for the petitioner submits that both the victim and the petitioner loved each other and got married and thereafter, the petitioner went to Malaysia in the year 2018 and returned to India on 04.11.2020. At that time, the respondents 2 and 3 wrongly understood that the petitioner got married with one Meela and preferred a complaint against him. He further submitted that the defacto complainant made a complaint against the petitioner due to misunderstanding that the petitioner had married one Meela. He further submitted that the petitioner also stated in the affidavit along with this petition that the petitioner and the victim girl are relatives and he is ready to marry the victim girl in front of their relatives and friends. Hence, the learned counsel prays for suspension of sentence of the petitioner.



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4. The learned Additional Public Prosecutor appearing on behalf of the respondent vehemently opposed this petition informing that the allegations levelled against the petitioner/accused are serious in nature and hence, prays to dismiss the petition.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and perused the materials available on record.

6. Today, the victim girl appeared in person before this Court along with her mother and stated that she had married the petitioner. She also filed an affidavit before this Court stating that she/victim married the petitioner/accused and both are lived together before his conviction.

7. This Court finds force in the submission of the learned counsel for the petitioner. Admittedly, the petitioner and the victim girl loved each other and got married and the victim girl is also willing to live with the petitioner. Hence, this Court *prima facie* feels that there are arguable points involved in this Criminal



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Appeal and further, the Criminal Appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

8. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Additional Sessions Judge, Karur, in Spl.S.C.No.18 of 2022 dated 28.06.2022 alone is suspended, subject to the following conditions:-

i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned Additional Sessions Judge, Karur;

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;

iii) The petitioner shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders;

(iv) In case, if the petitioner is unable to appear before the Court on the first working day of a month, he shall appear on the next working day.



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iv) The petitioner shall furnish his residential address and mobile number to the Trial Court ie., learned Additional Sessions Judge, Karur.

9. Subject to the above conditions, this Criminal Miscellaneous Petition is allowed.

sd/-
08/03/2024

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11/03/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

- 1 THE ADDITIONAL SESSIONS JUDGE, KARUR.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, KULITHALAI, KARUR DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.P.KALAIYARASI BHARATHI, Advocate (SR-2940[I] dated 08/03/2024)



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ORDER
IN
CRL MP(MD) No.11283 of 2023
in
CRL A(MD)No.690 of 2023
Date :08/03/2024

SS/SAR- /11/03/2024/7P/6C

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