



CRL MP(MD) No.9950 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Twenty Eighth day of June 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.9950 of 2023

in

CRL A(MD) No.519 of 2023

KALIDOSS

... Petitioner / Appellant / Accused

Vs

THE INSPECTOR OF POLICE
ARANTHANGI ALL WOMEN POLICE STATION,
PUDUKKOTTAI DISTRICT.
(CRIME NO.2 OF 2017.)

... Respondent / 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 imposed by the Mahila Court, Pudukkottai by its judgment dated 03.01.2023 in Spl.SC.No.22 of 2017 and enlarge the petitioner on bail, pending disposal of the above criminal appeal.

Prayer in CRL A(MD) 519 of 2023:

To call for the records pertaining to impugned judgment dated 03.01.2023 in Spl.S.C.No.22 of 2017 on the file of the Mahila Court, Pudukkottai and set aside and allow this criminal appeal.



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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.A.ARUL JENIFER Advocate for the petitioner and of Mr.RMS.SETHURAMAN, 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.]

The case of the prosecution is as follows:

(i) The victim girl and the accused are residing in the same village. At the time of occurrence, the victim girl was aged 16 years and was studying 12th Standard in Avudayarkovil Government Higher Secondary School. On 19.07.2017, while the victim girl was returning from School, near Sethuramanvayal Bus Stop, the accused tried to talk with the victim girl, however, she refused to talk with him. Feeling irritated and infuriated by that, on 20.07.2017, at 02.00 a.m., when the victim girl had gone out of the house to attend nature's call, the accused had hugged her, threatened her that if she shouts, he would kill her and carried her to a Kanmoikarai and committed penetrative sexual intercourse. Thereafter, the victim girl returned back to home.

(ii) At about 05.00 a.m., when P.W.1, father of the victim girl



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and his wife woke up the victim girl for getting ready to go to School, she cried and informed them about the incident. Thereafter, P.W.1 called his brother-in-law over phone and informed him about the same. Immediately, he came to the house of P.W.1 and enquired the victim girl and she had disclosed about the incident. Thereafter, P.W.1 and his brother-in-law went to the Police Station and lodged a complaint (Ex.P1). Pursuant to the said complaint (Ex.P1), a case in Crime No.2 of 2017 (Ex.P9) came to be registered on the same day.

(iii) Thereafter, P.W.18 took up the investigation and examined the witnesses and filed the final report against the accused under Sections 506 I.P.C., and 4 of POCSO Act, 2012.

(iv) On appearance of the accused, the provisions of Section 207 of the Code of Criminal Procedure were complied with and the case was committed to the Court of Sessions in and was made over to the Special Court (Mahila Court), Pudukkottai, for trial in Special S.C.No.22 of 2017.

(v) The Trial Court, after hearing the accused, framed two charges against him, as detailed below:



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Charge	Penal Provisions
1.	506(i) I.P.C.
2.	4 of POCSO Act, 2012

(vi) When questioned, the accused pleaded "not guilty". To prove the case, the prosecution examined 08 witnesses and marked 16 exhibits and 07 material objects. When the accused were questioned under Section 313 of the Code of Criminal Procedure on the incriminating circumstances appearing against him, he denied the same and did not come forward to give any plausible explanation. No witness was examined from the side of the accused nor any document marked.

(vii) By judgment and order dated 03.01.2023, the Trial Court found the accused guilty for the offence under Section 506(i) I.P.C., and Section 4 of POCSO Act, 2012 and convicted and sentenced them, as detailed below:-



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Section of Law	Sentence of imprisonment	Fine amount
506(i) I.P.C.	To undergo two years rigorous imprisonment	Rs.10,000/- in default to undergo one year rigorous imprisonment
4 of POCSO Act, 2012	To undergo life imprisonment.	Rs.2,00,000/- in default to undergo one year rigorous imprisonment

The sentences imposed on the accused were ordered to run concurrently.

2. Challenging the said conviction and sentence, the accused has filed an appeal in Crl.A.(MD) No.519 of 2023 and pending the appeal, he has filed the above miscellaneous petition seeking to suspend the sentence imposed on him.

3. Learned counsel for the petitioner would submit that the evidence of the prosecutrix cannot be relied upon. The learned Trial Judge had failed to take into consideration the long delay in giving the complaint (Ex.P1). The alleged occurrence is said to have taken place at 02.00 a.m., and the victim girl is said to have informed her parents about the occurrence only at about 05.00 a.m., which is unnatural. He would further submit that the medical evidence does not support the case of the prosecution as projected by the prosecutrix. Further petitioner is an



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youngster and he is in incarceration from the date of conviction. There are also several other grounds in the appeal and the likelihood of the appeal being taken up for final hearing in the near future is also not possible, thereby he prayed for suspension of sentence.

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

5. Learned Additional Public Prosecutor appearing for the respondent – Police, on instructions, would submit that the petitioner and the victim girl are residents of the same village. When the victim girl had gone out of the house to attend nature's call at about 02.00 a.m., the petitioner had taken her to a place away from the house and committed penetrative sexual assault on her. The victim girl is aged 16 years. Therefore, he prays for dismissal of this suspension of sentence application.

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

7. Taking into consideration the facts and circumstances of the case, we are of the view that the petitioner has made out a prima facie case for grant of suspension of sentence.

8. Accordingly, the criminal miscellaneous petition is allowed and the



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substantive sentence of imprisonment alone imposed on the petitioner herein is suspended, subject to the following conditions:

- 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 Sessions Judge, Mahila Court, Pudukkottai District.
- 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 stay at Peravoorani, Thanjavur District and report before the Sessions Judge, Mahila Court, Pudukkottai District, on the first working day of every month, until further orders.



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iv. It is made clear that the petitioner shall not enter into the jurisdictional limits of the respondent Police Station until further orders.

sd/-
28/06/2024

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02/07/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

KRK

To

1.The Sessions Judge,
Mahila Court, Pudukkottai District.

2.The Inspector of Police,
Aranthangi All Women Police Station,
Pudukkottai District.

3.The Superintendent,
Central Jail, Trichy.

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

+1 CC to M/s.R.PARANJOTHI, Advocate (SR-7102[I] dated 28/06/2024)

ORDER
IN
CRL MP(MD) No.9950 of 2023
in
CRL A(MD) No.519 of 2023
Date :28/06/2024



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ED/ /SAR- (02/07/2024) 9P / 6C

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