



CRL MP(MD) No.9248 of 2023

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

Thursday, the Fifteenth day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.9248 of 2023

in

CRL A(MD) No.1 of 2023

CHRISTOPHER

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
ARANTHANGI,
PUDUKKOTTAI DISTRICT.
CRIME NO.4 OF 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 upon me by the Mahila Court, Pudukottai in made in Spl.S.C.No.13 of 2020 dated 19.09.2022 pending disposal of the criminal appeal.

Prayer in CRL A(MD).1/2023 :

To call for the records and set aside the conviction and sentence passed by the Mahila Court, Pudukottai in made in Spl.S.C.No.13 of 2020 dated 19.09.2022.

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.T.LENIN KUMAR, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-



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The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on him by the learned Sessions Judge, Mahila Court, Pudukottai, in Spl.S.C.No.13 of 2020 dated 19.09.2022 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.4 of 2020 on the file of the respondent/Inspector of Police, All Women Police Station, Aranthangi, Pudukkottai District, for the offences punishable under Section 448 of IPC and Section 8 of POCSO Act and the same was taken on file in Spl.S.C.No.13 of 2020 before the learned Sessions Judge, Mahila Court, Pudukkottai. The petitioner was convicted and sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/- with one month simple imprisonment in case of default for the offence under Section 448 IPC and to undergo seven years rigorous imprisonment and to pay a fine of Rs.60,000/- with six months simple imprisonment in case of default for the offence under Section 10 of POCSO Act. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Criminal Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel appearing for the petitioner would submit that the prosecution has miserably failed to prove the case beyond reasonable doubt.



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According to the prosecution, the occurrence took place during night hours and at that time, there was no light in the occurrence place and Ex.P.7 and Ex.P.8 did not contain the particulars about the light. Since the occurrence took place during night hours and there was no light, it was not possible for P.W.2 and P.W.3 to see the person, who trespassed into their house and assaulted P.W.2 sexually. He further submitted that the trial Court, without considering the said vital aspect, simply discarded the contradictions and convicted the petitioner. The trial Court erred in convicting the petitioner by relying upon the testimony of P.W.1 and P.W.2. P.W.1 deposed that light will be burning always in her house, but the trial Court ought to have concluded that the light was there at the time of occurrence. The evidence of P.W.2 has entirely contradicted the evidence of P.W.1 and P.W.2 did not support the evidence of P.W.1 because P.W.2 deposed that at the time of occurrence, light was burning outside the house. Hence, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned Government Advocate (Criminal Side) appearing for the respondent vehemently opposed this petition informing that the allegations levelled against the petitioner/accused are serious in nature. At the time of occurrence, the victim girl was a minor. He would further submit that P.W.1 in his evidence has stated that light would be burning always in the house entrance and P.W.2 had also



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stated that light was burning in the house entrance and P.W.2-victim child had deposited evidence about the occurrence, which was corroborated by the evidence of P.W.1-mother of the victim child and P.W.3-eye witness/grandmother of the victim child and also corroborated by P.W.7-medical officer with respect to time, date, place and person, though there is slight variation in the manner in which the occurrence had taken place and hence, prays to dismiss the petition.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. side) appearing for the State and perused the materials available on record.

6. This Court finds force in the submission of the learned counsel for the petitioner. Hence, this Court is of the prima facie view that there are arguable points involved in this Criminal Appeal. Moreover, the petitioner has been incarcerated from 19.09.2022 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.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Sessions Judge, Mahila Court, Pudukottai, in Spl.S.C.No.13 of 2020 dated 19.09.2022 alone is suspended, subject to the following stringent conditions:-



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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 Sessions Judge, Mahila Court, Pudukottai;

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 and sign before the concerned Court daily at 10.30 a.m. and 5.30 p.m., till the disposal of the appeal.

iv) The petitioner shall furnish his residential address and mobile number to the Trial Court i.e., learned Sessions Judge, Mahila Court, Pudukottai.

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

sd/-

15/02/2024

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19/02/2024

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

RM

TO

1 THE SESSION JUDGE, MAHILA COURT, PUDUKOTTAI.



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2 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.

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3 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, ARANTHANGI,
PUDUKKOTTAI DISTRICT.

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

+1 CC to M/s.T.LENINKUMAR, Advocate (SR-1936[I] dated 15/02/2024)

ORDER

IN

CRL MP(MD) No.9248 of 2023

in

CRL A(MD) No.1 of 2023

Date :15/02/2024

RS//SAR-(19.02.2024) 6P 6C

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