



CRL MP(MD) No.13055 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Twenty Seventh day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.13055 of 2023

IN

CRL A(MD) No.832 of 2023

V.MANIKANDAN

... Petitioner / Appellant / Sole Accused

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
SATTUR,
VIRUDHUNAGAR DISTRICT.
(IN CRIME NO.6/2023).

... 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 upon the petitioner in Spl S.C No. 62 of 2023 on the file of the learned Special court for Exclusive Trial of Cases under POCSO Act, Srivilliputhur dated 01.06.2023.

Prayer in CRL A(MD) No.832 of 2023:

To call for the records pertaining to the Sessions Case in Spl.S.C.No.62 of 2023



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on the file of the learned Special Court for Exclusive Trial of Cases under POCSO Act, Srivilliputhur dated 01.06.2023 and to acquit the appellant/accused from the all charges.

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.ARUMUGAM.C.M, Advocate for the petitioner and of Mr.M.SAKTHI KUMAR, Government Advocate (Crl. side) on behalf of the Respondent, the Court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner in Special SC No.62 of 2023, dated 01/06/2023 passed by the Sessions Judge, Special Court for POCSO Act cases, Srivilliputhur and enlarge him on bail pending disposal of the Criminal Appeal.

2.The case of the prosecution is that the de-facto complainant lodged a complaint stating that on 27/02/2023 as usual she went for work, but at about 12.00 noon she suddenly developed illness. So, she returned to the house. At that time, she found the accused misbehaved with the victim girl. The victim girl is unable to walk and used to wear minimum dress. On seeing the de-facto complainant, the accused suddenly stood up, by pushing her down and escaped from that place. Upon the occurrence, a case in Crime No.6 of 2023 was registered by the respondent police for the offences under section 452 IPC and section 5(k) r/w 6 of POCSO Act.



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3. After completion of the investigation, the respondent police filed a final report and the same has been taken cognizance in Special SC No.62 of 2023 by the Sessions Judge, Special Court for the Exclusive Trial of POCSO Act Cases, Srivilliputhur.

4. On the side of the prosecution, 6 witnesses were examined and 10 documents were marked. On the side of the accused, no oral and documentary evidence was adduced.

5. At the conclusion of the trial process, the trial court found the petitioner guilty of the offences and sentenced him to undergo 5 years RI and to pay a fine of Rs.1,000/- in default to undergo 3 months SI for the offence under section 452 IPC; sentenced to undergo 20 years RI and to pay a fine of Rs.1,000/- in default to undergo 3 months SI for the offence under section 6 of POCSO Act and directed all the sentences to run concurrently.

6. Challenging the conviction and sentence, this appeal is preferred by the appellant. Pending appeal, this criminal miscellaneous petition was taken out by the petitioner seeking suspension of sentence.

7. Heard both sides.

8. The learned counsel appearing for the petitioner would submit that the medical evidence does not support the case of the prosecution and there was a



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partition issue between PW1 and the accused; section 29 of the POCSO Act does not attract, since the foundational facts were not established by the prosecution; there was no injury on the private part of the victim. Apart from that, it is further submitted that the wife of the petitioner is a cancer patient and taking treatment. Considering the family circumstances, suspension of sentence may be granted.

9.Per contra, the learned Government Advocate (Criminal side) would submit that the evidence of PW1 shows that she personally witnessed the occurrence, so no indulgence need be shown.

10.It is very unfortunate to note that the victim girl is a deaf and physically challenged girl not in a position on her own to walk, she used to be kept lying with minimum garments. On the particular date of the occurrence, PW1 himself witnessed the occurrence. Against her evidence, now it has been stated that it is motivated complaint because of the partition issue.

11.Whether it is true or not is a matter for consideration only at the time of appeal. But prima facie, I find that the prosecution does not suffer from any serious infirmities. As per the medical evidence, hymen was not in tact.

12.Considering the manner in which the offence said to have been committed, I am of the considered view that no discretion can be exercised in favour of the petitioner.



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13. In the result, this miscellaneous petition is dismissed.

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27/09/2024

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Sub-Assistant Registrar
(C.S.I /II /III /IV)

Madurai Bench of Madras High Court,
Madurai - 625 023.

ER

To

1. The Sessions Judge,
Special Court for Exclusive Trial of Cases under POCSO Act,
Srivilliputhur.

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

3. The Superintendent,
Central Prison, Madurai.

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

ORDER

IN

CRL MP(MD) No.13055 of 2023

IN

CRL A(MD) No.832 of 2023

Date :27/09/2024

ED/ VR /SAR- (22/10/2024) 5P / 5C

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