



CRL MP(MD) No.10351 of 2024

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

Tuesday, the Twenty Second day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.10351 of 2024

IN

CRL A(MD) No.798 of 2024

AJITH KUMAR

... PETITIONER/SOLE APPELLANT

Vs

THE INSPECTOR OF POLICE,
DEVAKKOTTAI ALL WOMEN POLICE STATION,
DEVAKKOTTAI,
SIVAGANGAI DISTRICT.
CRIME NO. 10/2018

... 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 by the judgment dt. 12.07.2024 on the file of the learned Sessions Judge, Principal Special court for Exclusive trial of cases under POCSO Act, 2012 Sivagangai in Spl S.C No. 31/2019 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

Prayer in CRL A(MD) No.798 of 2024:

Pleased to set aside the judgement dated 12.07.2024 passed by the Learned Sessions Judge, Principal Special Court for Exclusive Trial of cases under POCSO Act, 2012 Sivagangai in Spl.S.C.No.31 of 2019.

Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon
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perusing the petition filed in support thereof and upon hearing the arguments of M/S.KANNAN.V, 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 on the petitioner by the learned Sessions Judge, Principal Special Court for Exclusive Trial of cases under POCSO Act, 2012, Sivagangai in Spl.S.C.No.31 of 2019 dated 12.07.2024.

2. Learned counsel for the petitioner submitted that the petitioner, who is the sole accused in this case, has been found guilty and convicted by the learned judge, for the offence under Section 5(1) r/w 6 of the POCSO Act, 2012 and sentenced to undergo 20 years Rigorous imprisonment and to pay a fine of Rs.5,000/- and in default to undergo further period of 1 months simple imprisonment. Set off under Section 428 Cr.P.C. was also ordered.

3. The case of the prosecution in brief is that the defacto complainant lodged a complaint stating that the victim was aged about 13 years. At the time of occurrence, she was studying 7th standard in Devakottai St.Mary's Higher Secondary School. Her neighbour was one Murugan who has two sons. The accused is one among them. He was sending messages to the victim girl through the defacto complainant's phone. On 12.11.2018, she saw the message and made enquiry with the victim. She



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informed that the accused has sent the message. On 13.11.2018, the victim returned to the house from the school and consumed Kerosene. When it was enquired she stated that the accused person used to come to the house frequently during the defacto complainant's absence and used to subject the victim girl to sexual intercourse. On the basis of the complaint given by the defacto complainant, a case was registered. After completing the investigation final report was filed.

4. Before the trial Court, on the side of the prosecution 19 witnesses have been examined, 20 documents were marked. Apart from that two material objects were marked. On the side of the accused no witness was examined and no document was marked.

5. Challenging the above said conviction and sentence, appeals have been preferred by the petitioner / accused. Pending appeal, the petitioner has filed a petition seeking suspension of sentence.

6. Learned counsel for the petitioner would submit that there is a delay in lodging the complaint. There are several confusions between P.W.1 and P.W.3. There is a civil dispute between the father of the accused and the defacto complainant. To wreak vengeance only, this false complaint has been given.

7. Per contra, learned Government Advocate would submit that the victim was aged about 13 years at the time of occurrence and the accused used to send frequent



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messages and in the course of time, he alleged to have misbehaved sexually with the girl and had subjected to sexual assault. The evidence of the victim girl shows that this is not the first time of the petitioner's misbehavior.

8. Reading of the evidence of the victim girl, shows that the accused was in the habit of making sexual advances and even at one point of time which went to the extent of committing sexual assault. The motive suggested by the accused is also denied. Prima facie evidence is available against the accused. Whether the evidence of the victim girl is believable, is a matter for consideration in the appeal.

9. Considering the manner in which the above said occurrence said to have been committed, this Court is not inclined to grant relief to the petitioner, exercising the discretionary power of this Court.

10. Accordingly, these Criminal Miscellaneous Petition is dismissed.

sd/-
22/10/2024

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/11/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNN
TO
1 THE SESSIONS JUDGE,
PRINCIPAL SPECIAL COURT FOR EXCLUSIVE TRIAL
OF CASES UNDER POCSO ACT, 2012 SIVAGANGAI

<https://www.mhc.tn.gov.in/judis>



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2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE,
DEVAKKOTTAI ALL WOMEN POLICE STATION,
DEVAKKOTTAI,
SIVAGANGAI DISTRICT.

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

ORDER
IN
CRL MP(MD) No.10351 of 2024
IN
CRL A(MD) No.798 of 2024
Date :22/10/2024

SA/MMS/SAR. /30.10.2024/5P/5C

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