



CRL MP(MD) No.12055 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.12055 of 2023
in
CRL A(MD)No. 747 of 2023**

K.BASKARAN

... PETITIONER/SOLE ACCUSED

Vs

**THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
SAMAYANALLUR,
MADURAI DISTRICT.
CRIME NO.24/2019.**

... 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 of Imprisonment imposed by the Learned Session Judge, Principal Spl. Court for Exclusive Trial of Cases under POCSO Act, Madurai in Spl.SC.No.11/2020 by the Judgement dt.13/2/2023 and enlarge the petitioner/appeallant on bail pending disposal of the above said Criminal Appeal.



CRL MP(MD) No.12055 of 2023

PRAYER IN CRL A(MD)No. 747 of 2023:

Pleased to call for the records and set aside the the judgment and conviction dated 13.02.2023 by the learned Session Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai in Spl.S.C.No. 11 of 2020 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 M/S.MAHENDRAPATHY.S, 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 present petition has been filed by the appellant/accused to suspend the sentence imposed on him by the learned Sessions Judge, Principal Special Court for Exclusive trial of cases under POCSO Act, Madurai in Spl.SC.No.11 of 2020.

2. The petitioner stands convicted and sentenced as under:

Section of Law	Sentence imprisonment	of	Fine amount
5(m),5(n) r/w.6 of POCSO Act	To undergo imprisonment	life	Rs.5000/- in default to undergo one year simple imprisonment

3. The case of the prosecution is that the petitioner herein who is the step father of the minor victim had committed penetrative sexual assault on the minor victim

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



CRL MP(MD) No.12055 of 2023

aged about 6 years.

4. Learned counsel appearing for the petitioner would submit that the petitioner is the step father of the victim. Since the petitioner was living with the mother of the victim a false has been given against him using the victim. P.W.1 the mother of the victim and P.W.2 the victim have not supported the case of prosecution. Further even at the time of investigation while recording the statement under Section 164 of Cr.P.C., the victim has not made any allegation as against the petitioner. Further P.W.16, doctor who conducted medical examination on the victim also found no external injuries. He would also submit that the petitioner is in custody from the date of judgment hence he seeks for indulgence of this court.

5. The respondent has filed detailed counter. Learned Additional Public Prosecutor appearing for the respondent, on instructions, would submit that though P.W.1, mother of the victim and P.W.2, victim have turned hostile the trial Court has convicted the accused based on the evidence of P.W.13, doctor from the Primary Health Centre who examined the child initially. Since the victim had complained of pain, P.W.13 had enquired her and during such time the victim had stated about the offence committed by her step father and thereafter complaint was preferred through child help line thereby he would vehemently oppose for grant of bail to the petitioner.



CRL MP(MD) No.12055 of 2023

WEB COPY

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

7. In this case P.W.1 the mother of the victim and P.W.2 the victim have not supported the case of prosecution during trial. Even in the statement recorded under Section 164 of Cr.P.C the victim has not made any allegation as against the petitioner. Having regard to the fact that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also considering the period of incarceration and also taking into consideration the facts and circumstances of the case, we are inclined to suspend the sentence imposed on the petitioner by the Trial Court pending the Appeal.

8. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment imposed on the petitioner herein alone is suspended pending the Appeal, 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, Principal Special Court for Exclusive trial of cases under POCSO Act, Madurai

ii. The sureties shall affix their photographs and Left Thumb Impression in

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



CRL MP(MD) No.12055 of 2023

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 report before the trial Court on the first working day of every English calendar month at 10.30 am., until further orders.

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

Note:

P.W.1 is the mother of the victim and P.W.2 is the victim have not supported the case of prosecution and they also deposed that there was no sexual assault, whereas the learned trial Judge awarded compensation to the victim vide G.O(Ms.)No.33, Social Welfare Nutrition and Meal Programme (SW.5(2) dated 03.10.2020 under Section 33(8) of Protection of Children from Sexual Offences Act, 2012 r/w.rule (9)(2) of POCSO rules 2020 from the Victim Compensation Scheme. Hence we are of the opinion that according to the facts of the case compensation should not have been awarded to the victim. Hence we direct the authorities concerned not to disburse the compensation amount to the victim till the disposal of the appeal.

/ TRUE COPY /

01/07/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV
TO

1 THE SESSIONS JUDGE
PRINCIPAL SPECIAL COURT FOR EXCLUSIVE TRIAL
OF CASES UNDER POCSO ACT, MADURAI.



CRL MP(MD) No.12055 of 2023

- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, SAMAYANALLUR,
MADURAI DISTRICT.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to MR. S.MAHENDRAPATHY, Advocate SR.No. 7246(I) DT; 02/07/2024

ORDER
IN
CRL MP(MD) No.12055 of 2023
in
CRL A(MD)No. 747 of 2023
Date :28/06/2024

PKP/01.07.2024/ 6P/ 6C

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