



CRL.M.P(MD)No.12804 of 2023

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

Monday, the Twenty Ninth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL.M.P(MD)No.12804 of 2023

in

CRL.A.(MD)No.800 of 2023

ASHOKKUMAR
(NOW CONFINED AS
CONVICT PRISONER IN
MADURAI CENTRAL PRISON)

... APPELLANT/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
SANNARPATTI POLICE STATION,
DINDIGUL DISTRICT.
CRIME NO.724 OF 2021.

... 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 toSuspend the sentence imposed against the petitioner and release the petitioner on bail pending disposal of the main Criminal Appeal before this Honble Court against the Judgment of the Honble Sessions Judge, Fast Track Mahila Court, Dindigul in Special S.C.No. 48 of 2022 dated 20.04.2023.

PRAYER IN CRL A(MD)No. 800 of 2023:

To call for the entire records connected with the judgment rendered by the Hon'ble Sessions Judge, Fast Track Mahila Court, Dindigul in Special S.C.No. 48 of 2022 dated 20.04.2023 and set aside the same and consequently acquit the apellant.

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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.PRAKASH.R, Advocate for the petitioner and of MR.S.MANIKANDAN, Government Advocate on behalf of the Respondent, the court made the following order:-

Reserved on : 21.12.2023

Pronounced on : 29.01.2024

The petitioner has filed this petition to suspend the sentence imposed against him in judgment dated 20.04.2023 made in Spl.S.C.No.48 of 2022 on the file of the learned Sessions Judge, Fast Track Mahila Court, Dindigul and to enlarge him on bail till the disposal of Criminal Appeal.

2.The brief facts of the prosecution case:

The victim girl was aged below 18 years at the time of occurrence. On 02.09.2021 at about 20.20 hours, the victim along with her sister were returning to their home after natural call, the petitioner/accused intercepted the victim girl and sexually harassed her and tried to touch her. The father of the victim came there and questioned the petitioner/accused, who slapped her father. The victim girl went to the police station and gave a complaint. FIR was registered in Crime No.724 of 2021 for the offence under Section 341 and 323 of IPC and Section 7 r/w 8 of POCSO Act against the petitioner/accused. P.W.6/Inspector of Police did investigation and laid



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charge sheet. The petitioner was charged for the offences under sections stated above.

3. To prove the charge, the prosecution examined 6 witnesses as P.W.1 to P.W.6 and marked 7 exhibits as Ex.P1 to Ex.P7. No material object was marked. On the defence side, no witness was examined and no exhibit was marked. After considering both sides evidences and both side arguments, the Trial Court has found the petitioner/accused guilty for the offence under Section 341 of IPC and Section 8 of POCSO Act and convicted and sentenced him to undergo simple imprisonment for a period of one month and to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for a period of one week for the offence under Section 341 of IPC and sentenced him to undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.7,000/-, in default, to undergo simple imprisonment for a period of three months for the offence under Section 8 of POCSO Act by passing impugned judgment dated 20.04.2023.

4. Aggrieved by the conviction judgment, the petitioner/accused has preferred the present Criminal Appeal before this Court. Along with appeal, the petitioner/accused has filed this petition seeking for suspension of sentence and for bail till the disposal of the appeal.

5. Heard both sides and perused the records in this Criminal Miscellaneous



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6. The learned counsel for the petitioner has submitted that the petitioner/accused had love affairs upon the victim girl and hence, he was attacked by the father of the victim at the time of occurrence itself. This was not brought by the prosecution side. The petitioner has not committed any sexual harassment to the victim girl, which was revealed from all the prosecution side witnesses. No material object was marked and no medical evidence was let in to prove the case of the prosecution. The petitioner is in prison for the past 8 months. The petitioner has a fair chance of succeed in the appeal and he is ready to pay the fine amount imposed by the trial Court. Therefore, the learned counsel for the petitioner prays for suspension of sentence and bail for the petitioner.

7. Per contra, the learned Government Advocate (Criminal Side) would submit that the victim girl was aged about 15 years old at the time of the alleged occurrence. The petitioner is aged 18 years. The petitioner followed the victim girl while she along with her sister were going to attend natural call and when she was returning the petitioner/accused interfered them and attempted to touch her. The father of the victim girl was there on hearing and questioned the petitioner, for which the petitioner slapped the father. The victim and her parents as P.W.1 to P.W.3 clearly deposed about the age of the victim and offences committed by the petitioner. The

Trial Judge has properly appreciated the evidence adduced by the prosecution and

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has correctly passed the judgment convicting the accused as stated therein and the petitioner has not paid the fine amount of Rs.7,500/- till date. Therefore, he opposed to grant suspension of sentence and thereby the petitioner is not entitled to bail.

8. On hearing both side rival arguments and on perusal of records, it is clear that the petitioner was convicted and sentenced to imprisonment as stated supra. During the course of argument, the learned counsel for the petitioner has drawn the attention of the court to certain grounds of defence that the petitioner and victim had love affairs and hence, the victim's father who foisted a false case against the petitioner. However, these are to be decided while deciding the appeal on merits. The learned counsel for the petitioner pointed out certain infirmities and inconsistencies in this case. The criminal appeal is of the year 2023 and the same is not likely to be taken up for final hearing in the near future. The petitioner/accused was sentenced to three years. The petitioner/appellant is in prison for the past 8 months. In the above circumstances, this Court is inclined to consider the relief sought in this petition and holds that the petitioner herein is entitled to the relief of grant of suspension of sentence.

9. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following

conditions:-

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(i) The petitioner shall pay the fine amount of Rs.7,500/- (Rupees Seven Thousand Five Hundred only) within a period of two weeks from the date of receipt of a copy of this order;

(ii) On such payment of fine amount within the stipulated period, the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Dindigul;

(iii) 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; and

(iv) The petitioner shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders.

sd/-
29/01/2024

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29/01/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

- 1 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT, DINDIGUL.
- 2 THE INSPECTOR OF POLICE
SANNARPATTI POLICE STATION,
DINDIGUL DISTRICT.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL.M.P(MD)No.12804 of 2023
in
CRL.A.(MD)No.800 of 2023
Date :29/01/2024

PKP/29.01.2024/ 7P/ 5C

Madurai Bench of Madras High Court is issuing certified
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