



CRL MP(MD) No.13813 of 2023

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

Thursday, the Eleventh day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.13813 of 2023

in

CRL A(MD) No.889 of 2023

R.THIYAGU

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
KODAIKANAL,
DINDIGUL DISTRICT.
CRIME NO.12 OF 2021.

... 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 in Spl S.C No. 89 of 2021 on the file of the court of Sessions, Fast Track Mahila Court, Dindigul dated 03.02.2023 and grant bail to the petitioner, pending disposal of the main Criminal Appeal.

Prayer in CRL A(MD).889/2023 :

To allow this appeal and set aside the order passed in Spl. SC No.89 of 2021 on the file of the Court of Sessions, Fast Track Mahila Court, Dindigul dated 03.02.2023.

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 MR.C.K.M.APPAJI, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Government Advocate (Crl.Side) 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 passed against him by the learned Sessions Judge, Fast Track Mahila Court, Dindigul, in Spl.S.C.No.89 of 2021 dated 03.02.2023 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.12 of 2021, on the file of the respondent/Inspector of Police, A.W.P.S. Kodaikanal, Dindigul District, for the offences punishable under Sections 363, 342, 506(i) of IPC and Sections 9(m), 9(n) read with 10 of POCSO Act and the same was taken on file in Spl.S.C.No.89 of 2021 before the learned Sessions Judge, Fast Track Mahila Court, Dindigul. The petitioner was convicted and sentenced to undergo four years rigorous imprisonment and to pay a fine of Rs.1,000/- with six months simple imprisonment in case of default for offence under Section 363 IPC, to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/- with two months simple imprisonment in case of default for offence under Section 342 IPC, to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/- with two months simple imprisonment in case of default for offence under Section 506(i) IPC and to undergo five years rigorous imprisonment and to pay a fine of Rs.10,000/- with six months simple imprisonment in case of default for offence under Section 10 of POCSO Act, 2012. Challenging the above said conviction



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and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel for the petitioner would submit that the petitioner has not at all committed any offence as alleged by the prosecution and the prosecution failed to prove the motive of the accused to take the minor girl into his house and thus, the basic foundation of the case itself is shrouded with mystery and the trial court failed to note the contradiction between the evidence of P.W1 and P.W.2 regarding the occurrence which creates suspicion about the case of the prosecution. The learned counsel further submitted that though the occurrence said to have been taken place on 21.09.2021, the complaint was preferred only on 22.09.2021 and hence, the erroneous delay of more than 24 hours would create suspicion about the registration of the case. The Investigation Officer had carried out the investigation in a partial manner, failed to recover any material object involved in the alleged offence and had mechanically filed the charge sheet and the birth certificate of P.W.1 was not marked as exhibit to prove the age of the victim girl and mere certificate issued by the Headmaster of the School in Ex.P.4 indicating the date of birth of the victim girl is not a conclusive proof for the date of birth of the victim girl.

4. The learned counsel further submitted that the trial Court ought to have considered the statement of the victim under Ex.P.1 and before the Doctor, since the



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same does not establish the offence levelled against the petitioner. Therefore, the learned counsel prays for suspension of sentence of the petitioner. He has further submitted that the petitioner is in Central Prison, Madurai for the past 363 days.

5. The learned Government Advocate (Crl. Side) appearing on behalf of the respondent vehemently opposed this petition informing that the allegations levelled against the petitioner/accused are serious in nature and the victim girl aged 11 years has clearly deposed about the incident and hence, there is nothing to discard the testimony of the victim and her evidence inspires confidence and the fine amount imposed on the petitioner was also not deposited before the trial Court and hence, prays to dismiss the petition.

6. 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.

7. The petitioner has raised substantial grounds in the appeal, which require detailed appraisal. Moreover, the petitioner has been in incarceration from 03.02.2023. Further, the appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence.

8. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence



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imposed by the learned Sessions Judge, Fast Track Mahila Court, Dindigul, in
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Spl.S.C.No.89 of 2021 dated 03.02.2023 alone is suspended subject to the following
stringent conditions:-

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, Fast Track Mahila Court, Dindigul.

ii) The petitioner shall appear and sign before the learned Sessions Judge, Fast Track Mahila Court, Dindigul, on everyday at 10.30 a.m., and 5.30 p.m., until further orders.

iii) The petitioner is directed to pay the fine amount immediately as directed by the trial Court in Spl.S.C.No.89 of 2021 dated 03.02.2023.

iv) The petitioner shall furnish his residential address and mobile number to the Trial Court ie., learned Sessions Judge, Fast Track Mahila Court, Dindigul.

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

sd/-
11/01/2024

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12/01/2024

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

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1 THE SESSIONS JUDGE, FAST TRACK MAHILA COURT, DINDIGUL.

2 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, KODAIKANAL,
DINDIGUL DISTRICT.

3 THE SUPERINTEDENT, CENTRAL PRISON, MADURAI.

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

+1 CC to M/s.C.K.M.APPAJI, Advocate (SR-587[I] dated 11/01/2024)

ORDER IN
CRL MP(MD) No.13813 of 2023
in

CRL A(MD) No.889 of 2023

Date :11/01/2024

RS//SAR-(12.01.2024) 6P 6C

Madurai Bench of Madras High Court is issuing
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