



CRL MP(MD) No.13252 of 2023

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

Tuesday, the Twenty Third day of April 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.13252 of 2023
in
CRL A(MD)No. 850 of 2023**

SUDALAI MANI

... APPELLANT/SOLE ACCUSED

Vs

**THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, PUDUKOTTAI,
THATTARPARAI POLICE STATION,
TUTICORIN DISTRICT.
(CRIME NO.245/2019).**

... 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 delivered by the POCSO Exclusive Court, Tuticorin, Tuticorin District, passed in Spl.SC.No.245/2019 through a Judgement 28/8/2023.

PRAYER IN CRL A(MD)No. 850 of 2023:

Pleased to admit this appeal on file and call for records in Spl.S.C.No. 245/2019

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on the file of the Special Court for Exclusive Trial of Cases unde POCSO Act, Tuticorin, Tuticorin District and to set aside the Judgment dated 28.08.2023 passed in Spl.S.C.No. 245/2019 by the Special Court for Exclusive Trial of Cases under POCSO Act, Tuticorin, Tuticorin District and thereby Acquit the above Accused from the 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.RAAMAKRISHNAN KA, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, 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.]

Seeking to suspend the sentence imposed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under the Protection of Children from Sexual Offences Act, 2012, Thoothukudi, by Judgment dated 28.08.2023, passed in Special S.C.No.245 of 2019, the petitioner / accused has filed this criminal miscellaneous petition.

2. Learned counsel for the petitioner would submit that the Trial Court failed to take into consideration various doubts arisen in the prosecution case and the



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discrepancies in the statements of the victim recorded under Sections 161(3) and 164 Cr.P.C. The role of the victim's sister, her name and her presence in the School, where she was also studying and she was the first person to take notice of the victim's arrival to the School, after the alleged quarrel with the accused on the fateful day, have been suppressed by the prosecution, which creates a doubt. Mariraj (P.W.3) and Lakshmanan (P.W.6), who are stated to be eyewitnesses to the occurrence, had not at all supported the prosecution case. In fact, based on the complaint (Ex.P1) given by the victim, First Information Report (Ex.P6) was registered for the offence under Sections 377, 511, 323 and 506(ii) I.P.C. in Crime No.251 of 2014, on the file of the respondent - Police. However, in order to attract the offence under Section 4 of the Protection of Children from Sexual Offences Act, 2012, the subsequent statement of the victim under Section 164 Cr.P.C., has been recorded. On these grounds, learned counsel for the petitioner would pray for suspension of sentence imposed on the petitioner.

3. Learned Additional Public Prosecutor appearing for the respondent - Police would submit that it is a case, where a minor boy was subjected to unnatural sex by the petitioner. He would submit that the evidence of the victim is cogent and it is also corroborated by the medical evidence, more particularly, the evidence of



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Dr.Joserias (P.W.11), who had examined the victim and issued Accident Register (Ex.P8) and therefore, he would object for grant of appeal bail to the petitioner.

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

5. A careful perusal of the materials shows that it is a case, where a school going minor boy was subjected to unnatural sex by the petitioner. Further, we find that the evidence of the victim is corroborated by the evidence of Dr.Joserias (P.W.11), who had examined the victim boy and issued Accident Register (Ex.P8). In such circumstances, we are of the view that it is not a fit case for grant of appeal bail to the petitioner and therefore, we are not inclined to suspend the sentence imposed by the Trial Court on the petitioner / accused pending the criminal appeal.

6. Accordingly, the criminal miscellaneous petition stands dismissed. However, it is made clear that the above observations are only for disposing this suspension application and it will not have any bearing during final hearing of the appeal.



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7. Post the criminal appeal in the usual course.

sd/-
23/04/2024
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/04/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

KRK
TO

- 1 THE SPECIAL JUDGE,
FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
TUTICORIN, TUTICORIN DISTRICT.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, PUDUKOTTAI,
THATTARPARAI POLICE STATION,
TUTICORIN DISTRICT.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.13252 of 2023
in
CRL A(MD)No. 850 of 2023
Date :23/04/2024

PKP/JGB/SAR /29.04.2024/ 5P/ 5C

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