



CRL MP(MD) No.10757 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.10757 of 2024

IN

CRL A(MD) No.820 of 2024

MUTHUKUMAR @ KANNAN

... Petitioner / Appellant

Vs

THE STATE OF TAMIL NADU

REP BY THE INSPECTOR OF POLICE,

SIVAGANGAI ALL WOMEN POLICE STATION,

SIVAGANGAI. CRIME NO. 9/2019

... 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 imposed upon me in S.C No. 21 of 2019 dt. 02.07.2024 on the file of the Special court for Exclusive trial of POCSO Act cases, Sivagangai dt. 02.07.2024 and enlarge the petitioner on bail pending disposal of the above criminal

Prayer in CRL A(MD). 820/ 2024 :

To call for records relating to the conviction and sentence passed by the Learned Special court for Exclusive trial of POCSO Act cases, Sivagangai dt. 02.07.2024 and set aside the same.

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.GAVINSILVESTER, Advocate for the petitioner and of M/s.MSAKTHI KUMAR, Government Advocate (Crl. Side) on behalf of the



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Respondents the court made the following order:-

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner by the learned Judge, Special Court for Exclusive Trial of cases under POCSO Act, 2012, Sivagangai, in S.C.No.21 of 2019 dated 02.07.2024.

2. Learned counsel for the petitioner would 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 7 read with Section 8 of POCSO Act, 2012 and sentenced to undergo 5 years Rigorous imprisonment and to pay a fine of Rs.1,000/- 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 is that the defacto complainant lodged a complaint stating that on 27.05.2019 at about 9 a.m., the victim was taken by her father and some other children to the barber shop of the accused. After her hair cutting was over, the children were taken back to the house. At that time of taking bath, the mother of the victim girl noted that the victim girl is suffering pain in her private part. On enquiry, she told her that when her father went out of the barber shop to attend a phone call, the accused has put his finger into the victim girl's private part and on her screaming on pain, he left her. On the basis of the complaint given by the defacto complainant, a case was registered. After completing the investigation final



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report was filed.

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4. Before the trial Court, on the side of the prosecution 12 witnesses have been examined, 10 documents 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, appeal 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 money transaction issue between the defacto complainant and the accused. Because of the money transaction to wreck vengeance, a false complaint has been given. Eventhough it is stated by P.W.1 that the cousin sister signed in the complaint given. But no signature of the cousin sister is available in the complaint. The investigation officer has not visited the place of occurrence.

7. Per contra, learned Government Advocate (Crl.) would submit that the victim was aged about 9 years at the time of the occurrence. She was subjected to sexual misconduct by the accused in his barber shop. He is the barber at the time of her presence. No interference is called for.

8. We will straightaway go to the evidence of victim girl. She has given detailed narration about the alleged misbehaviour made by the accused persons. She



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informed the pain suffered by her due to the misconduct to P.W.1. Reading of the evidence of victim girl shows that it does not suffer from any infirmity. So prima facie shows that the petitioner caused the sexual misbehaviour. The motive suggested by the petitioner was denied by P.W.1. It is suggested to P.W.1 that the father of the victim is addicted to liquor. He obtained Rs.60,000/- from the petitioner. There was a compromise talk in the village. The accused did not agree for the compromise. To wreck vengeance, a false complaint has been given. That was denied. No other circumstances is available in favour of the petitioner for exercising the discretionary power of this Court.

9. 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 JUDGE
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT, 2012,
SIVAGANGAI.



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2. THE INSPECTOR OF POLICE,
SIVAGANGAI ALL WOMEN POLICE STATION, SIVAGANGAI.

3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

ORDER
IN
CRL MP(MD) No.10757 of 2024
IN
CRL A(MD) No.820 of 2024
Date :22/10/2024

PSP/ MMS /SAR /04.11.2024/ 5P/ 5C

Madurai Bench of Madras High Court is issuing certified
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