



CRL MP(MD) No.13830 of 2023

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

Friday, the Fifth day of July 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.13830 of 2023
in
CRL A(MD) No.19 of 2023

DEVAKUMAR

... Petitioner / Petitioner

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
ALANGULAM,
TIRUNELVELI DISTRICT.
(CRIME NO.24/2017.)

... 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 the petitioner by the Sessions Court (Special Court for POCSO Act Cases), Tirunelveli in Spl.S.C.No.70/2019 dated 29.11.2022 pending disposal of the Criminal appeal.

Prayer in CRL A(MD) No.19 of 2023:

To call for the records and set aside the conviction and sentence passed by the Sessions Court (Special Court for POCSO Act Cases), Tirunelveli in Spl.C.No.70 of 2019 dated 29.11.2022.

Order : This criminal miscellaneous petition coming up for orders on this day,



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upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.LENIN KUMAR.T, 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 on the petitioner by the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli, vide Judgment dated 29.11.2022 in Spl.S.C.No.70 of 2019, he has filed this criminal miscellaneous petition.

2. The petitioner stands convicted and sentenced as under:

Section of Law	Sentence of imprisonment	Fine amount
341 I.P.C.	To undergo one month rigorous imprisonment	Nil
6 POCSO Act, 2012 (Amended Act, 2019)	To undergo life imprisonment	Rs25,000/-, in default to undergo one year rigorous imprisonment.

3. The case of the prosecution is that the petitioner is the uncle's son of the victim girl. Taking advantage of the same, the petitioner used to visit the victim girl in her home often. During such times, when no one was available in her house, the petitioner had committed sexual assault on her on various occasions, thereby, she became pregnant and she delivered a male baby. Further, the petitioner had



threatened her not to disclose the same to anybody.

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4. Learned counsel for the petitioner would submit that the petitioner and the victim girl are known to each other and even as per the evidence of the prosecutrix, there was a consensual relationship between them. The victim was few months short of majority and the petitioner was also aged early 20's during the relevant time. Further, the age of the victim girl has not been proved by the prosecution in accordance with law. Further, the complaint was given only after the pregnancy of the victim girl was known to her mother. Further, there are several arguable points in favour of the petitioner and the likelihood of the appeal being taken up for final hearing in the near future is also not possible and therefore, he prayed for suspension of sentence.

5. The respondent – Police has filed a detailed counter affidavit.

6. Learned Additional Public Prosecutor appearing for the respondent – Police, on instructions, would submit that though the petitioner is a relative, the victim girl was born on 22.08.2000 and the occurrence had happened during the year 2017. The prosecution has relied upon Ex.P6 to prove the age of the victim girl. The victim girl has also delivered a child and the DNA report also proves that the petitioner is the biological father of the child, thereby, he would object for grant of suspension of sentence to the petitioner.



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available on record.

7. Heard the learned counsel on either side and perused the materials

8. Having gone through the records and taking into consideration the facts and circumstances of the case and also the age of the petitioner, we are of the opinion that it is a fit case for grant of suspension of sentence to the petitioner.

9. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment alone imposed on the petitioner herein is suspended, 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, Special Court for POCSO Act Cases, Tirunelveli.
- ii. 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 passbook to ensure their identity.
- iii. The petitioner shall stay at Chennai and report before the



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Inspector of Police, Selaiyur Police Station, Chennai, daily
at 10.30 a.m., 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/-
05/07/2024

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08/07/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

KRK

To

1.The Sessions Judge,
Special Court for POCSO Act Cases,
Tirunelveli.

2.The Inspector of Police,
All Women Police Station,
Alangulam, Tirunelveli District.

3.The Superintendent,
Central Prison,
Palayamkottai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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+1 CC to M/s.T.LENINKUMAR, Advocate (SR-7577[I] dated 08/07/2024)

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ORDER

IN

CRL MP(MD) No.13830 of 2023

in

CRL A(MD) No.19 of 2023

Date :05/07/2024

ED/ /SAR- (08/07/2024) 6P / 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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