



CRL MP(MD) No.14242 of 2023

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

Thursday, the Twelfth day of December Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE K.K. RAMAKRISHNAN

CRL MP(MD) No.14242 of 2023

IN

CRL A(MD) No.734 of 2023

RAJA

... APPELLANT/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
VALLAM ALL WOMEN POLICE STATION,
THANJAVUR DISTRICT.
CRIME NO.24/2021

... RESPONDENT/COMPLAINANT

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 against the petitioner in Spl.SC No.23/2022 dated 23.06.2023 passed by the Learned Principal Sessions Court for Exclusive Trial of Cases under POCSO Act, Thanjavur and enlarge the petitioner on bail pending disposal of the above appeal.

Prayer in CRL A(MD) No.734 of 2023 :

To call for the records in Spl.S.C.No.23 of 2022 dated 23.06.2023 passed by the Learned Principal Special Court for Exclusive Trial of cases under POCSO Act, Thanjavur and to set aside the same.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.R.L.DHILIPAN PANDIAN, Advocate for M/S.ANAND.K, Advocate for the petitioner and of MR.M.SAKTHI KUMAR, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-



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This petition has been filed to suspend the sentence imposed on the petitioner by the Principal Sessions Court for Exclusive Trial of Cases under POCSO Act, Thanjavur, in Spl.S.C.No.23 of 2022, dated 23.06.2023, and enlarge the petitioner on bail pending disposal of the main Criminal Appeal.

2.The case of the prosecution is that the petitioner is saree sales man. The petitioner came to the victim's house to sell sarees, on 28.12.2021, at 03.00 p.m., when the victim girl was playing by sitting along with her brother in the cement block in front of her house, at that time, the petitioner showed sarees to the victim girl and asked if her mother wants saree and he put the same on her lap and touched her private part. Hence, P.W.1 the mother of the victim girl gave a complaint. On the basis of the complaint given by P.W.1, the respondent Police registered a case in Crime No.24 of 2021 for the offence under Section 9(m) r/w 10 of POCSO Act.

3.The respondent police, after completing the investigation, has laid a final report before the Principal Sessions Court for Exclusive Trial of Cases under POCSO Act, Thanjavur, and the same was taken on file in Spl.S.C.No.23 of 2022.

4.During the trial, on the side of the prosecution, 13 witnesses were examined as P.W.1 to P.W.13 and 13 documents were marked as Ex.P.1 to Ex.P.13 and three Material Objects were marked as M.O.1 to M.O.3. On the side of the accused, neither a document was produced nor a witness was examined.



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5.The learned Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, has passed the impugned judgment dated 23.06.2023 and convicting the petitioner/accused for the offence under Sections 9(m) r/w 10 of POCSO Act and sentenced him to undergo five years Rigorous Imprisonment and to pay a fine of Rs.10,000/- in default to undergo one year Rigorous Imprisonment. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

6.The learned counsel for the petitioner would submit that according to the prosecution, the victim girl was subjected to the sexual assault. Even as per the prosecution, the only allegation against the appellant is that he touched her private part. The learned counsel brought to the notice of this Court that the evidence of P.W.2/Victim girl is as follows:

கேள்வி:Good Touch, Bad Touch தெரியுமா

பதில் :தெரியாது.

அந்த தாத்தா வந்து Bad Touch செய்தார்.

and he also submitted that the petitioner is suffering from Delusional Disorder and the same was aggravated inside the prison and he also confined Central Prison, Trichy, from 23.06.2020. Hence, he seeks suspension of sentence.



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7.The learned Government Advocate (Crl. Side) appearing for the respondent Police would contend that the learned trial Court has rightly convicted the petitioner on the basis of the evidence and the petitioner has no prima facie case in this appeal and hence, he strongly opposed to grant suspension of sentence.

8.This Court carefully considered the submissions made by the learned counsel appearing on either side and also perused the materials available on record.

9.Considering the facts and circumstances of the case and also considering the period of incarceration and there are some arguable points involved in the criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future, the petitioner is entitled to the relief of grant of suspension of sentence.

10. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) 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 Principal Sessions Court for Exclusive Trial of Cases under POCSO Act, Thanjavur;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of his Aadhar card or Bank Pass



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Book to ensure his identity; and

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(iii) The petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
12/12/2024

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13/12/2024

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

sbn

TO

1 THE JUDGE,
PRINCIPAL SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT,
THANJAVUR.

2 THE INSPECTOR OF POLICE,
VALLAM ALL WOMEN POLICE STATION,
THANJAVUR DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON,
TRICHY.

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

+1 CC to M/s.K.ANAND, Advocate (SR-15304[I] dated 12/12/2024)



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ORDER

IN

CRL MP(MD) No.14242 of 2023

IN

CRL A(MD) No.734 of 2023

Date :12/12/2024

RS/IT/SAR-(13.12.2024) 6P 6C

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