



CRL MP(MD) No.14803 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 P. VADAMALAI

CRL MP(MD) No.14803 of 2023

IN

CRL A(MD) No.600 of 2023

RAMASAMY

... PETITIONER/ APPELLANT/ SOLE-ACCUSED

Vs

**1 THE STATE REPRESENTED BY
THE DEPUTY SUPERINTENDENT OF POLICE,
SRIVILLIPUTHUR SUB DIVISION,
VANNIYAMPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.**

**2 THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
VANNIYAMPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.**

CRIME NO. 200 OF 2011 ... RESPONDENT/RESPONDENT/COMPLAINANT

3 RAMARAJ ... RESPONDENT/RESPONDENT/DEFACTO COMPLAINANT

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 execution of sentence by granting bail in S.C No. 05/2012 dated 26.06.2023 on the file of the Learned Special Sessions Judge (Special court for trial of offences under SC/ST (POA) Act, Srivilliputhur, Virudhunagar District pending disposal of the above Criminal Appeal.

<https://www.mhc.tn.gov.in/judis>



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PRAYER in CRL A(MD) No.600 of 2023:

To admit this appeal on file, to call for the records from the lower court in SPL.SC.No.05/2012 on the file of the Learned Sessions Judge(Special Court for trial of offences under SC/ST(POA)Act, Srivilliputhur, Virudhunagar District and set aside the judgment dated 26.06.2023 by acquitting the accused and by allowing the Appeal.

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.V.KATHIRVELU, Advocate M/S.PRABHU.K, Advocate for the petitioner and of Mr.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondents 1 & 2, the Court made the following order:-

Reserved on : 28.11.2023

Pronounced on : 11.01.2024

The petitioner has filed this petition to suspend the sentence imposed against him by the learned Sessions Judge, Special Court for trial of offences under SC/ST (POA) Act, Srivilliputhur, Virudhunagar District in S.C.No.5 of 2012 by judgment dated 26.06.2023 and to enlarge him on bail pending disposal of the criminal appeal.

2.The brief facts of the prosecution case:

The victim child was studying 3rd standard at Palayasennelkulam Primary School and she belongs to Scheduled Caste community. The petitioner/accused was working as Headmaster in that school. On 03.11.2011 at about 9.15 a.m. when the



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victim child was in the class room the petitioner/accused took her to a hidden place covered by thatched board (thatti) and the petitioner/accused inserted his right hand and pressed the private part of the victim child, immediately the victim child cried, the petitioner threatened her with dire consequences. The victim girl returned home with cry and narrated the happenings to her father, who lodged a complaint before the Vanniyampatti police station. FIR was registered in Crime No.200 of 2011 for the offence under Section 354, 506(i) of IPC and Section 3(1)(x), 3(1)(xi) of SC/ST (POA) Act, 1989. P.W.21/Deputy Superintendent of Police did investigation and laid charge sheet. The petitioner was charged for the offences under sections stated above.

3. To prove the charge the prosecution examined 21 witnesses as P.W.1 to P.W.21 and marked 8 exhibits as Ex.P1 to Ex.P8 and no MO was marked. On the defence side, no witness was examined and no exhibit was marked.

4. After considering both sides evidences and both side arguments, the Trial Court has found the petitioner guilty for the offence under Section 354 of IPC r/w 3(1)(xi) of SC/ST (POA) Act, 1989 and 506(i) of IPC convicted and sentenced the petitioner to undergo rigorous imprisonment for a period of 5 years and to pay a fine of Rs 5,000/-, in default, to undergo simple imprisonment for a period of six months



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for the offence under Section 354 of IPC r/w 3(1)(xi) of SC/ST (POA) Act, 1989 and also sentenced the petitioner to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for a period of one month for the offence under Section 506(i) of IPC and ordered the sentence of imprisonment to run concurrently by passing impugned judgment dated 26.06.2023.

5. Aggrieved by the conviction judgment, the petitioner preferred the present Criminal Appeal before this Court. Along with appeal, the petitioner filed this Criminal Miscellaneous Petition seeking for suspension of sentence and for bail pending disposal of the appeal.

6. Heard both sides and perused the records in this Criminal Miscellaneous Petition.

7. The learned counsel for the petitioner has submitted that the victim was aged 8 years old at the time of occurrence and she deposed as P.W.2 at the age of 16 years. The P.W.1 belongs to a particular political party. The prosecution mainly alleged that the occurrence happened at a place concealed with a thatched board (thatti), but



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actually, there was no such concealed place in the school and accordingly, in the rough sketch the concealed place was not mentioned. P.W.1 admitted in his evidence that there is no hidden place in the school. The school itself consists of only one hall. P.W.2/victim deposed that the occurrence took place in the back side of the school, but this is not the prosecution case. P.W.1 deposed that P.W.2 read the complaint to P.W.1, this is false evidence because P.W.2 was studying 3rd standard. P.W.1 stated that P.W.2 took treatment for one week at private hospital, but P.W.1 admitted that there is no injury to P.W.1. The evidence is against the P.W.16/Medical Officer. Except P.W.2's evidence all other evidences are hearsay evidences. The trial Court has not properly appreciated the evidence of prosecution witnesses. Hence, the petitioner has been falsely implicated in this case. The petitioner is in prison from the date of judgment. The petitioner has a fair chance of succeed in the appeal. Therefore, the learned counsel for the petitioner prays for suspension of sentence and bail for the petitioner.

8. Per contra, the learned Additional Public Prosecutor would submit that the petitioner is the Head Master of the school where the occurrence took place. The victim was studying 3rd std clearly deposed about the occurrence. Her evidence was



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corroborated by other prosecution witnesses. Mere not mentioning the hidden place in the rough sketch, does not affect the prosecution case, as the victim clearly deposed in her evidence about the crime committed by the petitioner/accused. It is a settled principle that the victim girl's evidence is sufficient. The Trial Court has correctly appreciated the evidence and correctly passed the judgment convicting the accused as stated therein. Therefore, he strongly opposed to grant suspension of sentence and bail.

9. The learned counsel appearing for the third respondent/defacto complainant would submit that the victim was examined as P.W.2 and she clearly deposed in her evidence about the occurrence and the victim's evidence itself is sufficient. Hence, he strongly opposed to grant suspension of sentence.

10. On hearing both side rival arguments and on perusal of records, it is clear that the petitioner was convicted and sentenced to imprisonment as stated supra. During the course of argument, the learned counsel for the petitioner has mainly drawn the attention of the Court to certain grounds of defence that there is no hidden place in the school, which consists only one hall and the same was admitted by the P.W.1/father of victim P.W.2. It is also contended that there is contradiction in medical officer's evidence as P.W1 admitted that there is no injury to P.W.2 who took treatment in private hospital and that the petitioner has a fair chance of succeed in the



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appeal. However, these are to be decided while deciding the appeal on merits. At the same time, the learned counsel for the petitioner pointed out certain infirmities and inconsistencies in this case. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is of the year 2023 and the same is not likely to be taken up for final hearing in the near future. The petitioner is in prison for six months. In the above circumstances and also considering the incarceration period of the petitioner, this Court is inclined to consider the relief sought in this petition and holds that the petitioner herein is entitled to the relief of grant of suspension of sentence.

11. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following conditions:-

(i) The petitioner/Accused is directed to be enlarged on bail on condition that 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 Sessions Judge, Special Court for trial of offences under SC/ST (POA) Act Cases, Srivilliputhur, Virudhunagar District;

(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 Pass



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Book to ensure their identity; and

(iii) The petitioner shall appear before the trial Court on first working day of every week at 10.30 a.m., until further orders.

sd/-
11/01/2024

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11/01/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSD
TO

- 1 THE SPECIAL SESSIONS JUDGE
(SPECIAL COURT FOR TRIAL OF OFFENCES
UNDER SC/ST (POA) ACT,
SRIVILLIPUTHUR, VIRUDHUNAGAR DISTRICT
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
SRIVILLIPUTHUR SUB DIVISION,
VANNIYAMPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 3 THE INSPECTOR OF POLICE
VANNIYAMPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 4 THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.



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

+1 CC to M/s.K.PRABHU, Advocate (SR-572[I] dated 11/01/2024)

ORDER
IN
CRL MP(MD) No.14803 of 2023
IN
CRL A(MD) No.600 of 2023
Date :11/01/2024

PKP/SAR- /11.01.2024/ 9P/ 7C

Madurai Bench of Madras High Court is issuing certified
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