



CRL MP(MD) No.15446 of 2023

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

Wednesday, the Twenty Eighth day of August Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.15446 of 2023

in

CRL A(MD) No.448 of 2023

M.MAHALINGAM

... Petitioner / Appellant / Sole Accused

Vs

THE INSPECTOR OF POLICE
AANDIPATTI POLICE,
THENI DISTRICT.

... 1st Respondent / 1st Respondent/ 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 the sentence dated 02.03.2023 passed in Spl.S.C.No.05 of 2021 against me by the Fast Track Mahila Court, Theni dated 02.03.2023 and the Appellant /Sole - Accused was in Judicial Custody dated 02.03.2023 Central Prison, Madurai and pending disposal of the appeal.

Prayer in CRL A(MD) No.448 of 2023:

To call for the records and set aside the judgment passed against the appellant / accused on 02.03.2023 in Spl.S.C.No.05 of 2021 on the file of the Fast Track Mahila Court, Theni and acquit him from all 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 SUSIKUMAR C, Advocate for the petitioner and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, the Court



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made the following order:-

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Fast Track Court/Mahila Court, Theni, in Special SC No.5 of 2021, dated 02/03/2023 and to enlarge the petitioner on bail pending disposal of the criminal appeal.

2.The case of the prosecution brief:-

The victim girl is aged about 14 + at the time of the occurrence. She is studying 10th Standard in the Hindu Higher Secondary School, Andipatti. The accused is the neighbour. In the course of time, the accused informed her that he is in love with her. On 04/12/2020 stating that he is going to marry her, she was taken in a two wheeler and performed marriage by tying tali in a temple. She was taken to Tirupur and then to Coimbatore and various places. In the meantime, on the basis of the complaint given by the de-facto complainant, the father of the victim, a case in Crime No.997 of 2020 was registered as 'Girl Missing'. After that, FIR was altered into section 366 IPC and section 6 of POCSO Act r/w 9 of Prohibition of Child Marriage Act, 2006.

3.After completion of the investigation, the respondent police filed a final report for the offences section 366 IPC and section 6 of POCSO Act r/w 9 of Prohibition of Child Marriage Act, 2006 and the same has been taken cognizance in



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Special SC No.5 of 2021 by the Sessions Judge, Fast Track Mahila Court, Theni.

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4. On the side of the prosecution, 12 witnesses were examined and 9 documents were marked. On the side of the accused, no oral and documentary was adduced.

5. At the conclusion of the trial process, the trial court found the accused guilty of the offence under section 6 of the POCSO Act, 2012 and sentenced him to undergo 20 years RI and to pay a fine of Rs.15,000/-, in default to undergo 5 years SI; sentenced to undergo 5 years RI and to pay a fine of Rs.5,000/-, in default to undergo 1 year SI and directed the sentences to run concurrently.

6. Challenging the conviction and sentence, this appeal is preferred by the appellant. Pending appeal, this criminal miscellaneous petition was taken out by the petitioner seeking suspension of sentence.

7. Heard both sides.

8. The learned counsel appearing for the petitioner would submit that on the date of the alleged occurrence, the victim was aged about 15, it was a love affair between them.

9. Per contra, the learned Additional Public Prosecutor would submit that the age of the petitioner is doubled namely he was 34 at the time of the trial. At the time of occurrence, he would have been around 33. So, considering the age of the



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victim girl, no indulgence be shown to the petitioner.

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10.It is highly inconceivable that a girl aged about 14 or 15 fell in love with the petitioner, who is aged about 33 during the occurrence period. This itself indicates that the petitioner is not a genuine person. In the circumstances of the case, the petitioner is not entitled for any discretion of suspension of sentence at this stage.

11.In the result, these miscellaneous petitions are dismissed.

sd/-
28/08/2024

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

ER

To

1.The Judge,
Fast Track Mahila Court, Theni.

2.The Inspector of Police,
Aandipatti Police Station,
Theni District.

3.The Superintendent,
Central Prison, Madurai.

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



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ORDER
IN
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in
CRL A(MD) No.448 of 2023
Date :28/08/2024

ED/ GSV /SAR- (21/11/2024) 5P / 5C

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