



CRL.M.P.(MD)No.12289 of 2024

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

Thursday, the Twenty Eighth day of November Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE K.K. RAMAKRISHNAN

CRL.M.P.(MD)No.12289 of 2024

in

CRL.A.(MD)No.998 of 2024

S. GANESHAMOORTHY

... PETITIONER/APPELLANT/
SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SRIVAIGUNDAM,
THOOTHUKUDI DISTRICT.
CRIME NO.12/2020.

... RESPONDENT/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 passed in Spl.S.C.No.4 of 2021 against the petitioner / Appellant by the Sessions Judge, Special Court for exclusive trial cases under POCSO act, Thoothukudi, Thoothukudi District, dated 21.10.2024 and Enlarge the Petitioner on Bail pending disposal of the appeal.

Prayer in CRL.A.(MD)No.998 of 2024:

Pleased to call for the records and set aside the judgment passed against the Appellant/accused on 21.10.2024 in Spl.S.C.No.4 of 2021 on the file of the Sessions

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



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Judge, Special Court for exclusive trial cases under POCSO Act, Thoothukudi, Thoothukudi District 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 Mr.A.D.GANESHAMOORTHY, 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:-

This Criminal Miscellaneous Petition has been filed to suspend the execution of sentence passed in Spl.S.C.No.4 of 2021, dated 21.10.2024, by the Learned Sessions Judge, Special Court for exclusive trial cases under POCSO Act, Thoothukudi, Thoothukudi District, and enlarge the petitioner on bail pending disposal of the appeal.

2.The case of the prosecution is that on 14.06.2020, at 08.00 a.m., when the victim girl stood in front of her house, at that time, the petitioner asked about one person namely, Aravindh and pulled her hand with intention to hug her. Hence, the respondent Police registered a case in Crime No.12 of 2020 for the offence under Section 7 r/w 8 of POCSO Act, 2012 r/w Section 506(i) of IPC.

3.The respondent police, after completing the investigation, has laid a final report and the same was taken on file in Spl.S.C.No.4 of 2021 by the Learned Sessions Judge, Special Court for exclusive trial cases under POCSO Act, Thoothukudi, Thoothukudi District.



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4. During the trial, on the side of the prosecution, 13 witnesses were examined as P.W.1 to P.W.13 and 10 documents were marked as Ex.P.1 to Ex.P.10. On the side of the accused, neither a witness was examined nor a document was exhibited.

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 21.10.2024 convicting the petitioner/accused for the offence under Section 8 of POCSO Act, 2012 and 506(i) of IPC and sentenced him to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.10,000/- in default to undergo one month simple imprisonment and for the offence under Section 506(i) of IPC and sentenced to undergo 1 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 submitted that there are several infirmities in the prosecution case. He further submitted that the only averment made against the petitioner is that he pulled her hand of the victim girl. Hence, he seeks suspension of sentence.

7. The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that there are enough materials available on record against the petitioner and hence, he strongly opposed this petition.



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8.This Court considered the rival submission made by the learned counsel appearing on either side and 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, 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 Sessions Judge, Special Court for exclusive trial cases under POCSO Act, Thoothukudi, Thoothukudi District,;

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

(iii) The petitioner shall appear before the Learned Sessions Judge, Special Court for exclusive trial cases under



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POCSO Act, Thoothukudi, Thoothukudi District, daily at
10.30 a.m., till the disposal of the appeal.

sd/-
28/11/2024

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29/11/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSG
TO
1 THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL CASES
UNDER POCSO ACT, THOOTHUKUDI,
THOOTHUKUDI DISTRICT.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SRIVAIGUNDAM,
THOOTHUKUDI DISTRICT.

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

+1 CC to M/s.A.D.GANESA MOORTHY, Advocate (SR-14674[I] dated 28/11/2024)



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ORDER
IN
CRL.M.P.(MD)No.12289 of 2024
in
CRL.A.(MD)No.998 of 2024
Date :28/11/2024

SA/SAR. /29.11.2024/6P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.