



CRL MP(MD) No.16245 of 2022

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

Tuesday, the Twenty Fourth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.16245 of 2022

IN

CRL A(MD) No.880 of 2022

ARIVAZHAGAN

... Petitioner / Appellant

Vs

THE INSPECTOR OF POLICE
THIRUVONAM POLICE STATION,
THANJAVUR DISTRICT
(CRIME NO.50 OF 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 of Imprisonment imposed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur made in Special Sessions Case No.33 of 2019 by the judgment dated 19.07.2022 and enlarge the petitioner/ appellant on bail, pending disposal of the above said criminal appeal.

Prayer in CRL A(MD) No.880 of 2022:

To call for the records and set aside the judgment and conviction dated 19.07.2022 by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur made in Sessions Case No.33 of 2019 and acquit the appellant.

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.KANAGARAJAN.S, 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 is filed to suspend the sentence imposed against the petitioner in Special SC No.33 of 2019, dated 19/07/2022 passed by the Sessions Judge, Special Court for POCSO Act case, Thanjavur and enlarge him on bail pending disposal of the Criminal Appeal.

2.The case of the prosecution is that the victim girl was studying +2 in the Government Higher Secondary School, Thiruvonam. At that time, the accused was the driver in TATA ACE vehicle and used to visit the victim girl for delivering cool drinks bottles. In the course of time, they became friends and lovers. The parents of the victim came to know about the relationship and she was warned not to talk with the accused. On the false promise of marriage, she was kidnapped on 10/04/2017 went to Tirupur and stayed in a house for a week. At that time, the accused was attending the work in a Garments Company. During that stay period, she was subjected to penetrative sexual assault. In the meantime, a complaint was given by the parents of the victim girl. So, they returned to the village. On the basis of the complaint, a case in Crime No.50 of 2017 was registered by the respondent police for the offence under section 366(A) IPC.



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3. After completion of the investigation, the respondent police filed a final report charging the accused for the offences under section 366 IPC and section 4 of POCSO Act 2012 and the same has been taken cognizance in Special SC No.33 of 2019 by the Sessions Judge, Special Court Exclusive Trial of cases under POCSO Act, Thanjavur.

4. On the side of the prosecution, 14 witnesses were examined and 19 documents were marked. On the side of the accused, no oral and documentary evidence was adduced.

5. At the conclusion of the trial process, the trial court found the petitioner guilty of the offences and sentenced him to undergo 7 years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default to undergo 1 year RI for the offence under section 366 IPC; sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.20,000/-, in default to undergo 1 year RI for the offences under section 4 of POCSO Act and directed all 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 the it is



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purely love affair between the petitioner and the victim girl and she was aged about 17 + at the time of the occurrence; there was a huge delay on the part of the parents of the victim girl in lodging the complaint.

9.Per contra, the learned Additional Public Prosecutor would submit that it is true that it is purely love affair between the victim girl and the petitioner, but the victim girl's date birth is 06/12/1999 and the date of occurrence is stated to be 10/04/2007. At that time, the victim was 17 +

10.Considering the above said fact, what went wrong after the above said relationship is a matter for consideration in the main appeal. Apart from that, whether the age of the victim was brought to the notice of the petitioner is another issue to be decided in the main appeal.

11.Considering the above said facts, the period of incarceration and also considering the fact that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future, this criminal miscellaneous petition is allowed and the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that he 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 Sessions Judge, Special Court for Exclusive Trial of Cases under



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POCSO Act Cases, Thanjavur District and on further condition that he shall report

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before the said court daily at 10.30 am until further orders.

sd/-

24/09/2024

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24/09/2024

Sub-Assistant Registrar
(C.S.I /II /III /IV)

Madurai Bench of Madras High Court,
Madurai - 625 023.

ER

To

1.The Sessions Judge,
Special Court for Exclusive Trial of Cases under POCSO Act Cases,
Thanjavur District.

2.The Inspector of Police,
Thiruvonam Police Station,
Thanjavur District.

3.The Superintendent,
Central Prison, Trichy.

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

ORDER

IN

CRL MP(MD) No.16245 of 2022

IN

CRL A(MD) No.880 of 2022

Date :24/09/2024



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ED/ /SAR- (24/09/2024) 6P / 5C

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