



Crl.MP(MD)No.16516 of 2023 in Crl.A(MD)No.1031 of 2023

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G.ILANGOVAN, J

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Dindigul District, in Special SC No.234 of 2023, dated 01/11/2023 and to enlarge the petitioner on bail pending disposal of the criminal appeal.

2.The case of the prosecution brief:-

The victim girl was 16 + at the time of the occurrence. The petitioner is the neighbour. The petitioner sustained the injuries in the leg, so he was unable to take care of the house work. The victim girl was helping the petitioner frequently. In the course of the time, the petitioner started loving her and also says that he fell in love. On 15/12/2022 promising her to marry the victim was subjected to sexual intercourse and thereafter, took her from the house on 15/12/2022 to various places and along with the petitioner, victim girl was also staying in those places. In the meantime, on the basis of the complaint given against the petitioner, he came down to the Eriodu Police Station, where he was arrested and the victim girl was secured. Upon the above said occurrence, a case in Crime No.306 of 2022 was registered by the respondent



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police against the petitioner for the offences under sections 363, 450 IPC and section 5(1) r/w 6 of POCSO Act,

2012.

3.After completion of the investigation, the respondent police filed a final report for the offences sections 450, 366 and section 6 of POCSO Act, 2012 and the same has been taken cognizance in Special SC No.234 of 2023 by the Sessions Judge, Special Court for POCSO Act cases, Dindigul.

4.On the side of the prosecution, 17 witnesses were examined and 15 documents were marked. On the side of the accused, one witness was examined and one document was marked.

5.At the conclusion of the trial process, the trial court found the accused guilty of the offences and sentenced him to undergo 3 years RI and to pay a fine of Rs.1,000/- in default to undergo 3 months SI each for the offence under sections 366 and 450 IPC; sentenced to undergo 20 years RI and to pay a fine of Rs.2,000/- in default to undergo 1 year SI for the offence under section 6 of POCSO Act 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.Now seeking suspension of sentence, this petition is filed stating that it is purely love affair between the victim girl and the petitioner; without noticing the same, judgment of conviction and sentence was imposed upon the petitioner.

9.The learned Government Advocate (Criminal side) would submit that the petitioner is a married person deserted his ill wife; The victim girl was kidnapped or abducted by the petitioner to various places and subjected to sexual assault. So, no indulgence need be shown.

10.Perusal of the records shows that the date of birth of the victim is 20/10/2006. The date of occurrence is 15/12/2022. Apparently, she was aged about 16 years at the time of the occurrence. Not only that, the petitioner already married, the question of eloping the victim does not arise at all. Taking advantage of the immaturity of the victim, the petitioner kidnapped or abducted her from the



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legal custody and during those stays subjected to sexual intercourse. The offence of this nature cannot be taken lightly. Since the typed set of papers also made ready, the petitioner is at liberty to argue the main appeal itself.

11.In the result, this Criminal Miscellaneous Petition is **dismissed**.

03/09/2024

Index : Yes/No
Internet: Yes/No
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To,

- 1.The Sessions Judge,
Special Court for Exclusive
Trial of cases under POCSO Act,
Dindigul.
- 2.The Inspector of Police,
Eriyodu Police Station,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

G.ILANGOVAN, J.,



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