



**CRL MP(MD) No.17341 of 2023**

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

**Friday, the Twelfth day of January Two Thousand and Twenty Four**

**PRESENT**

**The Hon`ble Mr.Justice VIVEK KUMAR SINGH**

**CRL MP(MD) No.17341 of 2023**

**in**

**CRL A(MD)No. 319 of 2023**

**SUNDARESHWARAN @ SUNDAR**

**... PETITIONER/ APPELLANT**

**Vs**

**THE INSPECTOR OF POLICE  
RAJAPALAYAM AWPS,  
RAJAPALAYAM,  
VIRUDHUNAGAR DISTRICT.  
CRIME NO.663/2020.**

**... 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 imposed against the petitioner in Spl SC No.22/2021 dt.10.10.2022 passed by the Learned Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur and enlarge the petitioner on bail pending disposal of the above appeal.

**Prayer in CRL A(MD)No. 319 of 2023:**

To call for the records in Spl.S.C.No. 22 of 2021 dated 10.10.2022 passed by the Learned Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur and to set aside the same.



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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.G.KARUPPASAMY PANDIYAN, Advocate for the petitioner and of MR.R.SIVAKUMAR, Government Advocate (Criminal Side) on behalf of the Respondent, the court made the following order:-

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence passed against him by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Srivilliputtur, in Spl.S.C.No.22 of 2021 dated 10.10.2022 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. It is the case of the prosecution that on 01.11.2020, the victim girl went to the tailoring class and she did not return to her home. Thereafter, the paternal aunt of the victim girl preferred a complaint before the respondent police and based on that complaint, a case has been registered for 'Girl Missing' in Crime No.663 of 2020, on the file of the respondent/Inspector of Police, A.W.P.S. Rajapalayam, Virudhunagar District. After the investigation, it came to light that the petitioner/accused has taken her to his house at Malaiyadipatti and had sexual relationship with her. Based on the statement of the victim girl, the respondent police altered the FIR in Crime No.663 of 2020 from 'Girl Missing' to Sections 366 of IPC and 5(1) r/w 6 of the offences punishable under Sections 6 of 'the Protection of Children from Sexual Offences Act,



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2012' [hereinafter referred to as 'POCSO Act' for the sake of brevity] and that the same was taken on file in Spl.S.C.No.22 of 2021 before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputhur. The petitioner was convicted and sentenced to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.5,000/- with one year simple imprisonment in case of default. He was convicted and sentenced to undergo one year simple imprisonment and to pay a fine of Rs.1,000/- with three months simple imprisonment in case of default. The petitioner was also convicted and sentenced to undergo 20 years of Rigorous Imprisonment and to pay a fine of Rs.10,000/- with one year simple imprisonment. Challenging the above said conviction and sentence, the petitioner has preferred the present Miscellaneous Petition seeking suspension of sentence.

3. Learned counsel for the petitioner submitted that the victim girl was aged about 15 years and 5 months at that relevant point of time and there was love affairs between her and the petitioner/accused. On 01.11.2020 both the victim girl and the petitioner/accused eloped together, married and lived together for 25 days by taking a separate house. Due to the physical relationship between them, she got pregnant and the same was terminated in the light of the direction passed by this Court. The specific contention of the learned counsel for the petitioner is that the trial Court



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ought to have considered the evidence of the victim girl that both the accused and the victim girl had a love affair and they led a marital life together. Hence, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned Government Advocate (Crl. Side) appearing on behalf of the respondent vehemently opposed this petition informing that the petitioner deceived the victim girl under the pretext of marriage and thereby she has become pregnant and subsequently it was terminated considering the health condition and welfare of the child victim and hence, prays to dismiss the petition.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. side) appearing for the State and perused the materials available on record.

6. On due consideration of the facts and circumstances of the case and having meticulously perused the evidence on record, without expressing any opinion on merits of the case, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputtur, in Spl.S.C.No.22 of 2021 dated 10.10.2022 alone is suspended, subject to the following stringent conditions:-



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i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputtur;

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 Book to ensure their identity;

iii) The petitioner shall appear before the concerned Court daily at 10.30 a.m. and 5.30 p.m., till the disposal of the appeal.

iv) The petitioner shall furnish his residential address and mobile number to the Trial Court ie., learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputtur.

8. Subject to the above conditions, this Criminal Miscellaneous Petition is allowed.

sd/-  
12/01/2024

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



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TO COPY

- 1 THE SPECIAL JUDGE  
THE SPECIAL COURT FOR POCSO ACT CASES,  
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR.
- 2 THE INSPECTOR OF POLICE  
RAJAPALAYAM AWPS, RAJAPALAYAM,  
VIRUDHUNAGAR DISTRICT.
- 3 THE SUPERINTENDENT,CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.G.KARUPPASAMY PANDIYAN, Advocate ( SR-695[I] dated 12/01/2024 )

ORDER  
IN  
CRL MP(MD) No.17341 of 2023  
in  
CRL A(MD)No. 319 of 2023  
Date :12/01/2024

PKP/22.01.2024/ 6P/6C

Madurai Bench of Madras High Court is issuing certified  
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