



Crl.M.P.(MD) No.17493 of 2023

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

Wednesday, the Thirteenth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

Crl.M.P.(MD) No.17493 of 2023

in

Crl.A(MD) No.155 of 2023

SATHEESHKUMAR

... APPELLANT/ ACCUSED

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, SIVAKASI,
VIRUDHUNAGAR DISTRICT.
CRIME NO.670 OF 2019.

... 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 Sentence imposed in the order of conviction against the Petitioner/ Appellant in Spl.SC.No.18 of 2020 dt.3.11.2022 on the file of the Learned Sessions Judge(Special Court of POCSO Act Cases),Virudhunagar District at Srivilliputhur and enlarge the petitioner on bail till the disposal of pending appeal.

PRAYER IN Crl.A(MD) No.155 of 2023:

To call for the records pertaining to the Judgment dated 03.11.2022 in Spl.S.C.No.18 of 2020 on the file of the Sessions Judge(Special Court of POCSO Act Cases) Virudhunagar District at Srivilliputhur and to set aside the same, by allowing this Criminal Appeal and may be pleased to acquit the Appellant/ Accused from the charges framed against him.



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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.M.ERULAPPARAJA, Advocate for the petitioner and of MR.R.SIVAKUMAR, Government Advocate(Crl.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 imposed on him by the learned Sessions Judge, Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur, in Spl.S.C.No.18 of 2020 dated 03.11.2022 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. It is submitted by the learned counsel for the petitioner that a case has been registered against the petitioner in Crime No.670 of 2019, on the file of the respondent/Inspector of Police, All Women Police Station, Sivakasi, Virudhunagar District, for the offences punishable under Sections 363 of IPC and Section 5(1) r/w. 6 of 'the Protection of Children from Sexual Offences Act, 2012' [hereinafter referred to as 'POCSO Act' for the sake of brevity] and Section 9 r/w 10 of the Protection of Child Marriage Act, 2006 and the same was taken on file in Spl.S.C.No.18 of 2020 before the learned Sessions Judge, Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur. The petitioner was convicted and sentenced to undergo one years



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rigorous imprisonment and to pay a fine of Rs.2,000/- with three months simple imprisonment in case of default for offence under Section 363 of IPC, to undergo one year rigorous imprisonment and to pay a fine of Rs.2,000/- with three months simple imprisonment in case of default for offence under Section 9 of the Protection of Child Marriage Act, 2006 and to undergo 20 years rigorous imprisonment and to pay a fine of Rs.2,000/- with three months simple imprisonment in case of default for offence under Section 5(1) r/w 6 of POCSO Act. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Criminal Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel for the petitioner submitted that the trial Court failed to consider the fact that in 164 statement made before the learned Magistrate, the victim stated that we had love affair and stayed in a separate room in the relative's house in Madurai and the petitioner did not commit any misbehaviour with her. He further submitted that the victim girl in her cross examination stated that she has got married and now led her marital life happily and the non-production of birth certificate of the victim was fatal to the prosecution. He further submitted that the accident register reveals that there are no injuries found in the victim's body and the medical evidence is totally contradicted the version of the prosecution case. The



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medical evidence did not support the case of the prosecution. The petitioner is in
judicial custody from 03.11.2022. 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 allegations levelled against the petitioner/accused are serious in nature. At the time of occurrence, the victim girl was a minor and hence, prays to dismiss the petition. The earlier application filed by the petitioner was dismissed by this Court.

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

6. This Court finds force in the submission of the learned counsel for the petitioner. Admittedly, the victim eloped with the petitioner and both had physical relationship. Based on the complaint lodged by the victim's brother, a case was registered. Hence, this Court is of the prima facie view that there are arguable points involved in this Criminal Appeal. Moreover, the petitioner has been incarcerated from 03.11.2022 and further the Criminal Appeal is not likely to be taken up for final



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hearing in the near future, 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 POCSO Act Cases, Virudhunagar District at Srivilliputhur, in Spl.S.C.No.18 of 2020 dated 03.11.2022 alone is suspended, subject to the following stringent conditions:-

- 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 POCSO Act Cases, Virudhunagar District at Srivilliputhur;
- 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 and sign 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 i.e., learned learned Sessions Judge,



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Special Court for POCSO Act Cases, Virudhunagar District at
Srivilliputhur.

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

sd/-
13/03/2024

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14/03/2024
Sub-Assistant Registrar (CS - IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

rm

TO

1.THE SESSIONS JUDGE,
SPECIAL COURT FOR POCSO ACT CASES,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR,

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, SIVAKASI,
VIRUDHUNAGAR DISTRICT.

3.THE SUPERINTEDENT,
CENTRAL PRISON, MADURAI.

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



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+1 CC to M/s.M.ERULAPPARAJA, Advocate (SR-3101[I] dated 13/03/2024)

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ORDER
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in
Crl.A(MD) No.155 of 2023
Date :13/03/2024

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