



CRL MP(MD) No.17773 of 2023

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

Thursday, the Seventeenth day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL.M.P.(MD)No.17773 of 2023

in

CRL.A.(MD)No.1109 of 2023

SAKTHIVEL

... APPELLANT/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
PALAYANOOR POLICE STATION,
SIVAGANGAI DISTRICT.
CRIME NO.24 OF 2022.

... 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 passed by the Learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, 2012, Sivagangai in Spl.SC.No.34 of 2018 dt.6.6.2023 and enlarge the Petitioner on bail pending disposal of the Criminal Appeal.

Prayer in Crl.A(MD).1109/2023:

Pleased to calling for the records pertaining to the conviction sentence passed in Spl.S.C.No.34 of 2022 on the file of the learned Sessions Judge, Principal Special Court for Exclusive Trial of cases under POCSO Act, 2012, Sivagangai dated 06.06.2023 and set-aside the same as illegal by acquit the Appellant.

Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon
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perusing the petition filed in support thereof and upon hearing the arguments of Mr.K.SIVABALAN, 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 by the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, 2012, Sivagangai in Spl.S.C.No.34 of 2018 dated 06.06.2023.

2. The learned counsel for the petitioner submitted that the petitioner, who is the accused in this case, has been found guilty and convicted by the learned judge, for the offence under Section 341 of IPC, sentenced to undergo simple imprisonment of one month and to pay a fine of Rs.500/- and in default shall undergo one week simple imprisonment and the accused is convicted under Section 9(m) read with Section 10 of Protection of Children from Sexual Offences (Amendment) Act, 2019 (with effect from 16.08.2019 and he is ordered to undergo rigorous imprisonment of 7 years and to pay a fine of Rs.10,000/- and in default in payment of fine, he shall undergo six months of simple imprisonment. Set off under Section 428 Cr.P.C. was also ordered.

3. The case of the prosecution in brief is that the victim is aged about 8 years at the time of occurrence and studying 3rd standard in Panchayat Union Primary School in the village. On 13.06.2022 at about 4.00 p.m., the victim was returning to the house



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from the school. The child was told to get water from the oorani. The child went to the oorani and at about 5 p.m., the accused came behind the child, chased her, later restrained her and misbehaved with her by pressing his hands over the victim girl's genital part. On the basis, the case was registered and final report was also filed before the trial court after completing the investigation process.

4. Before the trial Court, on the side of the prosecution 11 witnesses have been examined, 10 documents were marked. On the side of the accused two witnesses were examined and no document was marked.

5. Challenging the above said conviction and sentence, appeal has been preferred by the petitioner / accused. Pending appeal, the petitioner has filed a petition seeking suspension of sentence.

6. Learned counsel for the petitioner would submit that the because of the motive existed between the defacto complainant and the accused over purchase of ancestral property, a false complaint has been given. P.W.6, who is the relative of P.W.2 has not supported the case of the prosecution. According to him, it is a motivated complaint and therefore, the petitioner is entitled for suspension of sentence.

7. Per contra, learned Additional Public Prosecutor would submit that, the guilt of the accused was proved beyond all the doubts and no interference is required for



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suspending the sentence. Without going into the other aspects projected by the petitioner, the evidence of the victim girl shows that the petitioner has misbehaved with her.

8. Considering the manner in which the offences said to have committed and the age of the victim girl, it is not a fit case to exercise the discretionary power of this Court.

9. Accordingly, this Criminal Miscellaneous petition is dismissed.

sd/-
17/10/2024

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/10/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNN
TO

1 THE SESSIONS JUDGE
PRINCIPAL SPECIAL COURT FOR EXCLUSIVE TRIAL
OF CASES UNDER POCSO ACT, 2012,
SIVAGANGAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
PALAYANOOR POLICE STATION,
SIVAGANGAI DISTRICT.

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

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ORDER
IN
CRL.M.P.(MD)No.17773 of 2023
in
CRL.A.(MD)No.1109 of 2023
Date :17/10/2024

SA/VR/SAR. /22.10.2024/5P/5C

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