



CRL MP(MD) No.17954 of 2023

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

Monday, the Twenty First day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.17954 of 2023

IN

CRL A(MD) No.837 of 2022

NALLUR PANDIAN

... APPELANT/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
RAJAPALAYAM NORTH POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.502/2017)

... 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 against the petitioner and release him on bail pending disposal of the main criminal appeal before this Honble Court against the judgment of the Special Court(Protection of Children from Sexual Offences Act cases) Virudhunagar District at Srivilliputtur in Special S.C.No.13 of 2018 and on 01.11.2022.

PRAYER IN CRL A(MD).837 of 2022:

Pleased to call for records and set aside the conviction and sentence imposed by the Special Court (Protection of Children from Sexual Offences Act Cases), Virudhunagar District at Srivilliputhur in Special S.C.No.13 of 2018 on 01.11.2022 and allow this Criminal Appeal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S. PRAKASH.R,



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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.13 of 2018, dated 01/11/2022 by the Special Court (Protection of Children from Sexual Offences Act Cases), Virudhunagar District at Srivilliputtur and enlarge the petitioner on bail pending disposal of the criminal appeal.

2.The case of the prosecution is that the victim girl was undergoing +2 in Rajapalayam Annapparaja Higher Secondary School. The accused was having close intimacy with the above said victim girl under the guise of false marriage. On 08/06/2017 at about 8.30 am, he took the victim girl to his house and committed penetrative sexual assault. That was also continued for several times. Because of the above said, the victim girl has become pregnant. On 01/08/2017 at about 08.30 pm, when the victim was going to the school, the accused intercepted and kidnapped her to Tenkasi and tied tali at Shivan Koil. Over the above said occurrence, a case was registered on the basis of the complaint given by the de-facto complainant and final report was also filed.



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3. During the course of trial, on the side of the accused, 16 witnesses examined and 19 documents were marked, apart from 5 material objects. On the side of the accused, no oral or documentary evidence was adduced.

4. At the conclusion of the trial, the trial court found the accused guilty and accordingly, convicted and sentenced him to undergo one year Rigorous Imprisonment and also pay a fine of Rs.1,000/- with default clause for the offence under section 366 IPC; and also convicted him for the offence under section 5(j)(ii) r/w 6 of the POCSO Act and sentenced to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.1,000/- with default clause.

5. Against which, the criminal appeal has been preferred before this court. Pending appeal seeking suspense of sentence, this petition has been preferred by the petitioner.

6. Heard both sides.

7. This is the second application filed by the petitioner seeking suspension of sentence on the ground that now the petitioner got married to some other woman



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and a child is born to them. The second wife is also present before this Court and stated that the marriage was arranged with this petitioner by her parents knowing that this criminal case was pending against the petitioner. Now she got a child. They separated from her family and as well as the petitioner's family and living alone without any care and income. Even though for considering the suspension of sentence this situation cannot be taken into account, but the fact remains that after the divorce of the first wife, this petitioner alleged to have fell in love with the victim girl. But, considering the fact that victim girl was below the age of majority, the earlier application was dismissed. Now the victim girl has also got married with some other boy and settled in life.

8.Considering the above said situation and also considering the period of incarceration, this Court is inclined to allow this petition.

9.In the result, Crl.M.P.(MD)No.17954 of 2023 in Crl.A(MD)No.837 of 2022 is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the



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learned Sessions Judge, Special Court (Protection of Children from Sexual Offences Act Cases), Virudhunagar and on further condition that he shall appear before the said Court once in a week at 10.30 am pending criminal appeal.

sd/-
21/10/2024

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21/10/2024
Sub-Assistant Registrar (CS-III)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1 THE SESSION, JUDGE,
SPECIAL COURT

(PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT CASES),
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE

RAJAPALAYAM NORTH POLICE STATION, VIRUDHUNAGAR DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,

MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN

CRL MP(MD) No.17954 of 2023 IN
CRL A(MD) No.837 of 2022
Date :21/10/2024

RK/ (21/10/2024) 5P / 5C

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