



CRL MP(MD) No.17712 of 2023

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

Wednesday, the Seventh day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CrI.M.P.(MD) No.17712 of 2023  
in  
CrI.A(MD) No.1108 of 2023

SAHAYA AROKIARAJ

... PETITIONER/ APPELLANT/  
SOLE ACCUSED

Vs

STATE REP.BY  
THE INSPECTOR OF POLICE  
DINDIGUL ALL WOMEN POLICE STATION,  
DINDIGUL DISTRICT.  
(IN CRIME NO.18/2022).

...RESPONDENT/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 on the petitioner/appellant/accused in Spl.SC.No.172/2023 dt.17/10/2023 on the file of the Fast Track Mahila Court, Dindigul and enlarge him on bail till the disposal of the Appeal.

Prayer in CrI.A(MD) No.1108 of 2023:

To call for the records relating to the judgment passed in spl.S.C.No.172/2023 dated 17.10.2023 on the file of the Fast Track Mahila Court, Dindigul and set aside the same and acquit the Appellant/Accused from all the charges levelled against him.

<https://www.mhc.tn.gov.in/judis>



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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 S.G.L.RISHWANTH, 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 imposed on him by the learned Sessions Judge, Fast Track Mahila Court, Dindigul, in Spl.S.C.No.172 of 2023 dated 17.10.2023 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.18 of 2022, on the file of the respondent/Inspector of Police, Dindigul All Women Police Station, Dindigul District, for the offences punishable under Section 366 of IPC, Section 9 of Prevention of Child Marriage Act and Section 6 of 'the Protection of Children from Sexual Offences Act, 2012' [hereinafter referred to as 'POCSO Act' for the sake of brevity] and the same was taken on file in Spl.S.C.No.172 of 2023 before the learned Sessions Judge, Fast Track Mahila Court, Dindigul. The petitioner was convicted and sentenced to undergo 20 years rigorous imprisonment and to pay a fine of Rs.1,000/-

(Rupees One Thousand only) with six months simple imprisonment in case of default



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for the offence under Section 6 of POCSO Act and to undergo 3 years rigorous imprisonment and to pay a fine of Rs.500/- (Rupees Five Hundred only) with three months simple imprisonment in case of default for the offence under Section 366 of IPC and to undergo one year rigorous imprisonment and to pay a fine of Rs.500/- (Rupees Five Hundred only) with one month simple imprisonment in case of default for the offence under Section 9 of Prevention of Child Marriage Act. Challenging the above said conviction and sentence, the petitioner has preferred this Criminal Appeal along with the present Criminal Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel for the petitioner submits that in the deposition, the victim (P.W.3) has clearly stated that her date of birth is 19.07.2002 and the date of her marriage is 07.07.2021 and that she became pregnant only after her marriage. Both the victim and the petitioner loved each other and got married and thereafter, P.W.3 gave birth to a child. He further submitted that the age of P.W.3 has not been conclusively proved by the prosecution. The victim girl was living happily with the petitioner prior to his conviction and she still wants to reside with the petitioner along with her child and they are ready to register their marriage. Hence, the learned counsel prays for suspension of sentence of the petitioner.



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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.

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. Today, the victim girl appeared in person before this Court along with her child and stated that they have two children out of their wedlock. She also assured to register their marriage and file an affidavit to that effect. The learned counsel for the petitioner also undertakes to file the same before this Court.

7. This Court finds force in the submission of the learned counsel for the petitioner. Admittedly, the petitioner and the victim girl loved each other and got married and begotten children and the victim is also willing to live with the petitioner. Hence, this Court prima facie feels that there are arguable points involved in this criminal appeal and further, the criminal appeal is not likely to be taken up for



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final 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.

8. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Sessions Judge, Fast Track Mahila Court, Dindigul, in Spl.S.C.No.172 of 2023 dated 17.10.2023 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, Fast Track Mahila Court, Dindigul;

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., 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, Fast Track Mahila Court, Dindigul.



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allowed.

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

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07/02/2024

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07/02/2024

Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

RM

TO

1. THE SESSIONS JUDGE, FAST TRACK MAHILA COURT,  
DINDIGUL.

2. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE  
DINDIGUL ALL WOMEN POLICE STATION,  
DINDIGUL DISTRICT.

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

+1 CC to M/s.S.SABBANI KARBURA JOTHI, Advocate ( SR-1509[I] dated  
07/02/2024 )



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ORDER  
IN  
Crl.M.P.(MD) No.17712 of 2023  
in  
Crl.A(MD) No.1108 of 2023  
Date :07/02/2024

SSA//SAR-(05.02.2024) 7P 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from  
17/07/2023