



CRL MP(MD) No.18036 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
( Criminal Jurisdiction )  
Tuesday, the Thirtieth day of January Two Thousand and Twenty Four  
PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.18036 of 2023  
in  
CRL A(MD)NO.1119 of 2023

PARTHASARATHI  
NOW CONFINED AT CENTRAL PRISON,  
MADURAI.

... APPELLANT/SOLE ACCUSED

Vs

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

... 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 in Spl SC No.144/2023 dt.04.12.2023 passed by the Learned Sessions Judge in the Special Cour for exclusive Trial of POCSO Act Cases, Dindigul and enlarge the petitioner on bail pending disposal of the above appeal.

PRAYER in CRL A(MD)NO.1119 of 2023:

To call for the records in Spl.S.C.No.144 of 2023 on the file of the Special Court for exclusive trial of POCSO Act Cases, Dindigul and to set aside the conviction and sentence dated 04.12.2023.

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 M/S.KRISHNAVENI.P, Advocate for the petitioner and of Mr.R.SIVAKUMAR, Government Advocate(Crl.side) on behalf of the Respondent, the Court made the following order:-



**CRL MP(MD) No.18036 of 2023**

WEB COPY

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, Dindigul, in Spl.S.C.No.144 of 2023 dated 04.12.2023 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. It is the case of the prosecution that on 02.12.2020, the defacto complainant P.W-1, who is the Sub-Inspector of Police, AWPS Dindigul, received a complaint bearing C.No.122/ADSP/CWC/DGL/2020 dated 13.11.2020 from the Additional Deputy Superintendent of Police, Dindigul, stating that he has received a report from National Centre for Missing and Exploited Children (NCNEC) by Cyber Tipline 49449803. In the said report, it is stated that the children obscene photos were shared through online from a particular IP address to the Facebook page by using a mobile phone belongs to the petitioner and requested to take action. Since the tower location of the IP address was found within the Chinnalapatti limits of Dindigul District, a case has been registered in Crime No.17 of 2020 on the file of the respondent/Inspector of Police, AWPS Dindigul Police Station, Dindigul District, for the offences punishable under Sections 13, 14(1) and 15 of 'the Protection of Children from Sexual Offences Act, 2012' [hereinafter referred to as 'POCSO Act' for the sake of brevity] and Sections 67(A) and 67 (B) of Information Technology Act,



**CRL MP(MD) No.18036 of 2023**

2000 [hereinafter referred to as 'IT Act' for the sake of brevity] and the same was taken on file in Spl.S.C.No.144 of 2023 before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Dindigul. The petitioner was convicted and sentenced to undergo one year Rigorous Imprisonment for the offence under Section 67(A) of IT Act and to pay a fine of Rs.1,500/- with three months Simple Imprisonment in case of default and he was not found guilty for the offence under Sections 13, 14(1) and 15 of POCSO Act. 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 trial Court failed to consider the evidence of P.W.6 and P.W.8 that no witnesses have been examined to show that the cell phone and sim card used in it belongs to the petitioner. Even there is no victim in this case and the Court below failed to consider the fact that the prosecution has not proved the offences alleged against the petitioner beyond reasonable doubts and it came to the conclusion by resorting presumption without appreciating the legal evidence. Hence, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned Government Advocate appearing for the respondent would submit that there are enough materials available on record against the



CRL MP(MD) No.18036 of 2023

petitioner and hence, he strongly opposed to grant suspension of sentence.

WEB COPY

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. 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, Dindigul, in Spl.S.C.No.144 of 2023 dated 04.12.2023 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, Special Court for Exclusive Trial of Cases under POCSO Act, 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



CRL MP(MD) No.18036 of 2023

Book to ensure their identity;

WEB COPY

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, Dindigul.

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

sd/-  
30/01/2024

/ TRUE COPY /

31/01/2024  
Sub-Assistant Registrar ( )  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

PKN

TO

1 THE SESSIONS JUDGE,  
SPECIAL COURT FOR EXCLUSIVE TRIAL OF POCSO ACT CASES,  
DINDIGUL.

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



**CRL MP(MD) No.18036 of 2023**

WEB COPY

3 THE SUPERINTENDENT,  
CENTRAL PRISON, MADURAI.

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

+1 CC to M/s.P.KRISHNAVENI, Advocate ( SR-1143[I] dated 30/01/2024 )

ORDER  
IN  
CRL MP(MD) No.18036 of 2023  
in  
CRL A(MD)NO.1119 of 2023  
Date :30/01/2024

SS/SAR- /31/01/2024/6P/6C

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