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CRL MP No. 18209 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-04-2025

CORAM

THE HONOURABLE MR JUSTICE P. VELMURUGAN

CRL MP No. 18209 of 2024

in

CRL A No.587 of 2024

Santhoshkumar @ Chettiyar
S/o. Elumalaichettiyar, No.8, B Block,
Gangaikaraipuram, Pathrikarai,
Kodambakkam High Road, Chennai
600034

Petitioner

Vs

State Rep By
The Inspector of Police
W-24, All Women Police Station,
Teynampet, Chennai

Respondent(s)

PRAYER: Criminal Miscellaneous Petition filed under Section 389(2) Cr.P.C./ 430 of BNSS to suspend the sentence passed in C.C.No.114 of 2021 pending on the file of the Special Judge for POCSO Cases, Chennai, and release the accused on bail pending disposal of the Crl.A.No.587 of 2024 on the file of this Court.

For Petitioner(s): Mr.V.K.Sathiamurthy

For Respondent(s): Mrs.G.V.Kasthuri
Additional Public Prosecutor

**ORDER**

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This Criminal Miscellaneous Petition has been filed by the petitioner/accused to suspend the sentence passed in C.C.No.114 of 2021 on the file of the Special Judge for POCSO Cases, Chennai, and release and release the petitioner on bail pending disposal of the Crl.A.No.587 of 2024 on the file of this Court.

2. The case of the petitioner is that the petitioner has been arrayed as A1 in C.C.No.114 of 2021 on the file of the Special Judge for POCSO Cases, Chennai. The learned Judge, on conclusion of trial, acquitted A2/who is the wife of the petitioner, from the offence under Section 6 read with 17 of POCSO Act. Though the trial Court not found the petitioner guilty for the offence under Section 12 of the POCSO Act, however, found the petitioner guilty for the offence under Section 6 of POCSO Act and Section 506(ii) of IPC and convicted and sentenced to undergo 10 years rigorous imprisonment with a fine of Rs.1 lakh in default of payment to undergo simple imprisonment for 3 months for the offence under Section 6 of POCSO Act and sentenced to undergo 3 years imprisonment for the offence under Section 506(ii) of IPC.



3. Challenging the said judgment of conviction and sentence, the petitioner has preferred an appeal before this Court in Crl.A.No.587 of 2024 and the present petition has been filed seeking to suspend the sentence imposed by the trial Court, till the disposal of the appeal.

4. The learned counsel for the petitioner submitted that the defacto complainant was living in the house of the accused and there was a landlord and tenant relationship between them. While so, in order to wreck vengeance, a false case has been foisted against the petitioner. Though the second accused/the wife of petitioner, who was charged for the offence of abetment, was acquitted, the trial Court convicted the petitioner as stated above. Since it is a false case, there are arguable grounds in the appeal and therefore, the sentence may be suspended.

5. The learned Additional Public Prosecutor appearing for the respondent police submitted that at the time of occurrence, the victim girl was aged 15 years and she was examined as P.W.2. Further, during investigation, she was produced before the Magistrate and her statement was recorded under Section 164 Cr.P.C. and subsequently, during trial, the victim substantiated the materials. Since the evidence of the victim itself showed that the petitioner



committed the offence which falls under the PCOSO Act, the trial Court rightly convicted the petitioner.

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6. At this juncture, the learned counsel for the petitioner submitted that the victim/P.W.2 has been tutored by her mother and after due deliberation, she has given the false statement.

7. Heard and perused the materials available on record.

8. The points raised by both the counsel are to be decided only in the appeal. Further, while considering the grave in nature of offence, the age of the victim especially on seeing the statement recorded from the victim under Section 164 Cr.P.C. and the evidence of the victim and also the judgment of the trial Court, this Court is not inclined to suspend the sentence.

9. Accordingly, this Criminal Miscellaneous Petition is dismissed.

10. Registry is directed to prepare the typed set of papers and list the matter after serving the copies on both side counsel.

03-04-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To
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1. The Special Judge for POCSO Cases
Chennai
2. The Inspector of Police
W-24, All Women Police Station,
Teynampet, Chennai
3. The Public Prosecutor
High Court of Madras



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CRL MP No. 18209 of 2024



P.VELMURUGAN,J.

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CRL A No.587 of 2024**

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