



WEB COPY

CRL MP No. 5762 of 2
IN CRL A NO. 372 OF 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-07-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL MP No. 5762 of 2026

IN

CRL A NO. 372 OF 2026

Sathish Kumar
S/o. Thiyakarajan,
Poosari Street, Mannargudi,
Tiruvarur District,
Tamil Nadu - 614 001.

..Petitioner(s)

Vs

The Inspector of Police,
All Women Police Station,
Mannargudi,
Tamil Nadu - 614 001.
(Crime No.2671/2020).

..Respondent(s)

CRL A No. 372 of 2026

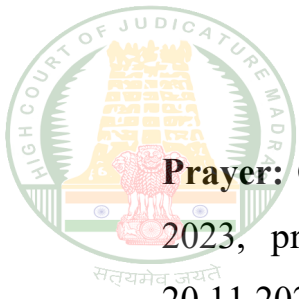
Sathish Kumar
S/o. Thiyakarajan,
Poosari Street,
Mannargudi,
Tiruvarur District,
Tamil Nadu - 614 001.

..Appellant(s)

Vs

The Inspector of Police,
All Women Police Station,
Mannargudi,
Tamil Nadu - 614 001.
Cr.No.2671/2020.

..Respondent(s)



Prayer: Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, 2023, praying to suspend the sentence imposed in the Judgment dated 20.11.2025 made in Spl.S.C.No.42 of 2020 on the file of the Fast Track Mahila Court, Thiruvavarur and release the petitioner on bail pending the Criminal Appeal.

For Petitioner(s): Mr.R.Thirumoorthy
for M/s.KK Ram Siddhartha

For Respondent(s): Ms.Sharada Vivek,
Government Advocate (Criminal Side)

ORDER

The petitioner/accused in Spl.S.C.No.42 of 2020 was convicted by the trial Court for offence under Section 366 of I.P.C. and Sections 6 r/w 5(1) of POCSO Act and sentenced to undergo 7 years rigorous imprisonment and to pay a fine of Rs.3,000/-, in default, to undergo three months simple imprisonment for the offence under Section 366 of I.P.C. and sentenced to undergo 20 years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo 6 months simple imprisonment for the offence under Section 6 r/w 5(1) of POCSO Act. Both sentences are directed to run concurrently. Aggrieved by the said conviction, the petitioner preferred an appeal in Crl.A.No.372 of 2026 along with present suspension of sentence petition.

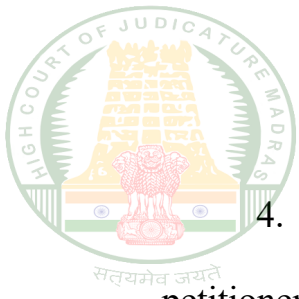


2. The learned counsel for the petitioner relying upon Ex.P9, the Transfer Certificate issued by the Co-operative Urban Bank Municipal High Secondary

School, Mannarkudi, submitted that Exs.P9 and P10 are created documents.

Though the records state that the victim was admitted in the school on 14.06.2013 in Class VII and her date of birth is 26.07.2003, she would not have been eligible for admission in Class VII. To prove his point, the petitioner cross-examined the Head Master/PW19 in detail and confronted him with Exs.P8, P9 and P10. Ex.P8 is the Admission Register, in which the victim's date of birth recorded as 26.07.2003. He further submitted that in view of the discrepancy in the age, the manner in which the age has to be proved as contemplated under Section 94 of the Juvenile Justice Act, not followed. Hence, the victim cannot be stated to be a minor.

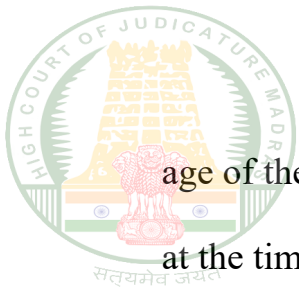
3. He further submitted that though the petitioner initially charged for offence under Section 366-A, finding that the victim's minority to be doubtful, the trial Court convicted the petitioner under Section 366 of I.P.C. He further submitted that the conviction of petitioner under Section 366 I.P.C. and Section 6 read with 5(l) of the POCSO Act cannot stand together. He further relied upon the evidence of the Doctor/PW13, who examined the victim and issued Ex.P5/Accident Register, wherein it was recorded that the victim voluntarily had physical relationship with the petitioner. Thus, when the victim is not a minor and it is a consensual sexual relationship, the conviction of the petitioner is not sustainable. Hence, prays to suspend the sentence.



WEB COPY

4. The learned Government Advocate (Crl. Side) strongly opposed the petitioner's contention and submitted that Section 366 of I.P.C. does not prescribes any age limit, it only states about kidnapping or abduction of any woman. In this case, the petitioner is admittedly aged about 40 years and he had no relationship with the victim except that he contacted her through a mobile phone. Thereafter using this contact, he induced the victim, who had lost her parents at a young age and was at the mercy of her uncle and aunt. Her uncle and aunt gone out to purchase a lorry and subsequently to attend a pooja. Taking advantage of the loneliness of the victim, the petitioner called the victim to his house, wrongfully confined her into the house and had physical relationship with the victim for more than one occasion. When the victim wanted to go back to her home, she was stopped. Later, when her relatives searched for the victim, they found that the victim was confined in petitioner's house and there was a fight, later she was rescued. Hence, the victim was in confinement and she was subjected to penetrative sexual assault or rape, which was confirmed by the statement of the victim as well as the Doctor, who examined her.

5. The learned Government Advocate further submitted that as per Section 64 of POCSO Act, the determination of the victim's age to be done by the Special Court. In this case, the POCSO Court has already determined the



age of the victim. If at all the petitioner is aggrieved, he can raise the points only at the time of final hearing of the appeal and it cannot be a ground for bail.

WEB COPY

6. Considering the above facts and circumstances of the case, this Court is not inclined to entertain this petition. Accordingly, the Criminal Miscellaneous Petition is dismissed for the present.

01-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
RSI

To

1.The Sessions Judge,
Fast Track Mahila Court,
Thiruvavarur.

2.The Inspector of Police,
All Women Police Station,
Mannargudi,
Tamil Nadu - 614 001.

3.The Public Prosecutor,
High Court, Madras.



WEB COPY

CRL MP No. 5762 of 2
IN CRL A NO. 372 OF 2



M.NIRMAL KUMAR J.

RSI

**CRL MP No. 5762 of 2026
IN
CRL A NO. 372 OF 2026**

01-07-2026