



WEB COPY

CRL MP No. 11279 of 2
in Crl.A.No.787 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-08-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

**CRL MP No. 11279 of 2026
in Crl.A.No.787 of 2026**

Rangan,
S/o.Thasan,
Boyar Street, Pottireddipatti (PO),
Sendamangalam, Namakkal District.

..Petitioner(s)

Vs

The State Rep By,
The Inspector of Police,
All Women Police Station,
Namakkal, Namakkal District.
Crime No.02/2023

..Respondent(s)

PRAYER: Criminal Miscellaneous Petition filed under Section 430 of BNSS, praying to suspend the sentence imposed on the Petitioner/Appellant in judgment made in Special Sessions Case No.33 of 2023 before in the Court of the Sessions Judge Magalir Neethimandram (Fast Track Mahila Court) Namakkal, Namakkal District dated 28.01.2026 pending disposal of this Appeal and pas such further or other order may deem fit proper in the circumstances of case and thus render justice.

For Petitioner(s): Mr.C.Venkatesan

For Respondent(s): Mrs.Sharada Vivek,
Government Advocate (Crl.Side)
Assisted by Mr.M.Arul Raj



ORDER

This Criminal Miscellaneous Petition has been filed seeking suspension of the sentence of imprisonment imposed by the judgment dated 28.01.2026 passed in Spl.S.C.No.33 of 2023 by the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Namakkal, and to enlarge the petitioner on bail pending disposal of Criminal Appeal No.787 of 2026 before this Court.

2. The conviction and sentence imposed on the petitioner/appellant vide the impugned judgment dated 28.01.2026 are as follows:

Section	Imprisonment	Fine Amount
449 of IPC	Sentenced to undergo Rigorous Imprisonment for a period of ten years and to pay a fine of Rs.1,000/-, and in default of payment of fine, the accused shall undergo further three months of simple imprisonment.	Rs.3,000/-
342 of IPC	Sentenced to undergo Imprisonment for a period of one year and to pay a fine of Rs.1,000/-, and in default of payment of fine, the accused shall undergo further three months of simple imprisonment.	
3(a) r/w 4(2) of Protection of Children From Sexual Offences Act	Sentenced to undergo Imprisonment for a period of twenty years and to pay a fine of Rs.1,000/-, and in default	



2012	of payment of fine, the accused shall undergo further three months of simple imprisonment.	
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3. The case of the Prosecution is that the victim girl was aged about 15 years (Date of Birth: 19.04.2007) at the time of occurrence. She discontinued her studies after the 7th standard and remained at home for about 3 years. Her parents were working as coolies. The Accused was residing in the same street near her house, his wife and children had deserted him, and he had been living along with his senior maternal aunt, Sundari. He was a distant relative of the victim girl's parents.

4. On 15.03.2023, the victim girl's younger sister was suffering from a heart ailment and was admitted to the Government Hospital, Namakkal, and her parents stayed with her sister at the hospital. At about 01.20 P.M., when the victim girl was alone at her house at Sendamangalam Taluk, the Accused trespassed into the house, bolted the door from inside, and wrongfully confined the victim girl. The Accused, by using compulsion, force, and threat, by holding her hands and gagging her mouth, committed penetrative sexual assault on her. Based on the aforesaid incident, a complaint was lodged by the mother of the victim to Tmt.Sivagami, W-Gr-I P.C.-1431, and Crime No.2 of 2023 was registered at the All Women Police Station, Namakkal, Namakkal District,



under Sections 342, 449 IPC and Section 6 r/w. 5(n) of the POCSO Act, 2012, against the Accused on 15.03.2023 at about 20.00 hours. The case was subsequently submitted before Tmt. Poornima, the then Inspector of Police, for investigation.

5. After completion of the investigation, a charge sheet was filed before the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Namakkal, for the offences punishable under Sections 449, 342 and Section 3(a) r/w. 4(2) of the POCSO Act, 2012, and the same was taken on file as Spl.S.C.No.33 of 2023. The Trial Court framed charges against the Accused. During the trial, the prosecution examined 18 witnesses [P.W.1 to P.W.18] and marked 9 exhibits. On the defence side, no witnesses were examined, no exhibits were marked, and no material objects were marked.

6. The learned counsel for the petitioner submitted that he has been falsely implicated in this case due to a village dispute over the *poosariship* (priesthood) right between the petitioner and his brother, Murugan (P.W.4). The said Murugan is close to the de facto complainant's family and utilized them to project a false complaint to keep the petitioner away from claiming the *poosari* right. He further submitted that while the victim girl (P.W.1) deposed in court that she went inside the house to drink water and the petitioner followed her, closed the door, pushed her down, and committed penetrative sexual assault, her



statement to the medical officer (P.W.17) contradicts this. Before the doctor, she stated that on 15.03.2023 at about 1.30 p.m., she and the petitioner were sitting and chatting for half an hour, after which she went inside to drink water, and the petitioner followed her, locked the door from inside, and tried to molest her and remove her pants. She did not state anything with regard to penetrative sexual assault to the doctor.

7. Furthermore, doctor P.W.17 examined the victim on the same day at about 11.30 p.m. and confirmed that the victim's hymen was found intact, there was no smear, and the vaginal swab did not detect semen or spermatozoa. Therefore, the possibility of penetrative sexual assault is ruled out, rendering the conviction under Sections 3(a) r/w 4 of the POCSO Act unsustainable.

8. The petitioner also challenged the testimony of P.W.4 (Murugan), who stated that he saw the house locked, peeped through the window, saw the victim and the petitioner together, and called his another brother, Karthick (P.W.5). It is alleged that by the time P.W.5 arrived, the petitioner opened the door and fled. Thereafter, Murugan called the victim's mother (P.W.2) to go to the police station.

9. The learned Government Advocate (Criminal Side) strongly opposed the petition and submitted that P.W.1 is the victim who clearly deposed about



how the penetrative sexual assault was committed by the petitioner, and she confessed to the same in her statement recorded under Section 164 of the Cr.P.C. She further submitted that P.W.2 and P.W.3 are the parents who were informed about the incident. P.W.4 is a relative and an eyewitness who saw the petitioner inside the house of the victim and informed P.W.5. Both P.W.4 and P.W.5 witnessed the petitioner coming out of the victim's house. Hence, the evidence of these witnesses clearly confirmed that the petitioner had committed penetrative sexual assault.

10. Heard both sides and perused the materials available on record.

11. Considering the facts and circumstances of the case, it is seen that the victim (P.W.1) has given an exaggerated version in her evidence. Before the Court, she stated that as she went inside the house, the petitioner followed her, locked the door, and committed penetrative sexual assault. However, before the doctor (P.W.17), she stated that she and the petitioner were sitting and talking for half an hour, after which she went inside the house to drink water, and the petitioner followed, locked the door from inside, and molested and committed sexual assault, and nothing more. Further, the doctor confirms that her hymen found intact, and biological tests did not detect semen or spermatozoa. The doctor opined that victim not sexually assaulted.



12. Furthermore, P.W.4 (Murugan) is the brother of the petitioner, and there is an ongoing dispute with regard to the *poojariship* between them.

P.W.4's evidence is that he saw the petitioner inside the house through the window, called and informed P.W.5 (another relative) and P.W.2 (the mother), and projected that the petitioner then opened the door and fled. Common sense dictates that if a person is discovered committing an offense inside a house, an observer outside would attempt to latch the door from the outside to secure the accused. In this case, no such attempt was made, which is explicitly admitted by P.W.4.

13. Given the material contradictions in the victim's versions, the conclusive medical evidence, and the context of the underlying family dispute, the conviction of the petitioner requires deeper reconsideration during the final hearing of the appeal. Hence, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

14. Accordingly, this Criminal Miscellaneous Petition stands allowed and the sentence imposed on the petitioner is suspended till the disposal of the above Criminal Appeal and the petitioner is ordered to be released on bail on the following conditions:

- (i) The petitioner/Appellant/Accused shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only),



with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Magalir Neethimandram (Fastr Track Mahila Court), Namakkal, Namakkal District.

(ii) The Petitioner/Appellant/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity and;

(iii) The petitioner/Appellant/Accused shall appear before the trial Court at 10.30 a.m., once in every three months, without fail, until further orders;

(iv) On breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in *P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]*.

15. Accordingly, this Criminal Miscellaneous Petition stands ordered.

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

CDA



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To

- 1.The Sessions Judge, Magalir Neethimandram
(Fastr Track Mahila Court), Namakkal,
Namakkal District.
- 2.The Inspector of Police,
All Women Police Station,
Namakkal, Namakkal District.
- 3.The Central Prison, Salem.
- 4.The Public Prosecutor,
High Court of Madras.



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M.NIRMAL KUMAR J.

CDA

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