



WEB COPY

CRL MP No. 11072 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-08-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL MP No. 11072 of 2026

IN

CRL A NO. 777 OF 2026

Thanigachalam
S/o. Dhashnamoorthy,
No.3/34, Pillaiyar Koil Street,
Serpapattu Village,
Thandarampattu Taluk,
Tiruvannamalai District.

..Petitioner(s)

Vs

The State Represented by
the Inspector of Police
Cheyyar Police Station,
Tiruvannamalai District.
Crime No.236/2021

..Respondent(s)

CRL A No. 777 of 2026

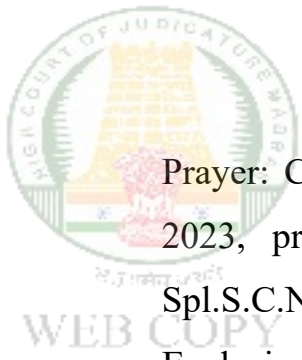
Thanigachalam
S/o. Dhashnamoorthy,
No.3/34, Pillaiyar Koil Street,
Serpapattu Village,
Thandarampattu Taluk,
Tiruvannamalai District.

..Appellant(s)

Vs

The State Represented by the Inspector of Police
Cheyyar Police Station,
Tiruvannamalai District.
Crime No.236/2021

..Respondent(s)



Prayer: Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, 2023, praying to suspend the sentence imposed upon the petitioner in Spl.S.C.No.167 of 2022 dated 02-06-2026, on the file of the Special Court for Exclusive trial of POCSO Act cases, Tiruvannamalai dated 02-06-2026 pending disposal of the above criminal appeal.

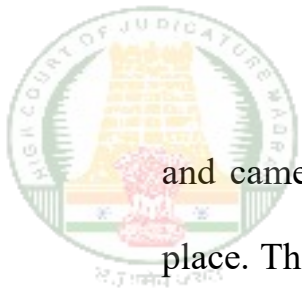
For Petitioner(s): Mr.N.Krishna Moorthy

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

ORDER

The petitioner/Accused in Spl.S.C.No.167 of 2022 was convicted by the Trial Court, by the judgment dated 02.06.2026, for the offence under Section 363 of I.P.C. and sentenced to undergo five years rigorous imprisonment and to pay a fine amount of Rs.5,000/-, in default, to undergo one year simple imprisonment. Aggrieved against the said conviction, the petitioner has preferred the above appeal along with the instant miscellaneous petition seeking suspension of sentence and bail.

2. The learned counsel for the petitioner submitted that the petitioner and the victim girl were friends through ShareChat and they regularly shared chats, which was objected to by the victim's mother. Hence, there was a quarrel and the victim was ill-treated with force. The victim's parents earlier separated and were living separately. Due to the act of her mother, the victim left her house



and came to the petitioner's house, requesting him to take her to her father's place. There was some delay, which was later projected as though the petitioner had forcibly kidnapped the victim girl, made improper touch and subjected her to sexual harassment. The petitioner was initially charged for offence under Sections 366, 354(A) of I.P.C. r/w. 8 of POCSO Act and Section 376(3) r/w 511 of I.P.C. and Section 4(2) r/w 18 of POCSO Act, 2012. After the trial, the Trial Court acquitted the petitioner of all charges except for offence under Section 363 of I.P.C. and sentenced him to undergo five years rigorous imprisonment. Hence, he prayed to grant bail to the petitioner.

3. The learned counsel for Government of Tamilnadu (Crl. Side) strongly opposed the petitioner's contention and submitted that the case of the prosecution is that the de facto complainant is the mother of the victim child, aged about 13 years. The petitioner is a resident of Serpapattu Village. The victim child was studying in the 9th standard in a private school and was attending Hindi tuition with one Geetha, who was residing near her house. The petitioner and the victim child became acquainted through ShareChat. On 05.05.2021 at about 2.30 p.m., when the victim child was alone at her house, the petitioner came there in his two-wheeler bearing Registration No.TN-25-AH-9985, induced her with a false promise of marriage, took her away from her lawful guardian and stayed with her at the house of his aunt, Rani. During the night of 05.05.2021, he made sexual advances and subjected the victim child to



sexual assault. Hence, the case. Based on the above complaint, a case was registered at Cheyyar Police Station in Crime No.236 of 2021. Initially, a case was registered under Sections 363 and 366 IPC and Sections 7 and 8 of the POCSO Act, 2012, on 05.05.2021 by the Sub-Inspector of Police, and thereafter submitted to the Inspector of Police, for investigation.

4. She further submitted that during trial, on the side of the prosecution, PW1 to 16 examined and Exs.P1 to P18 marked. On the side of the defence, Ex.D1 marked. The victim/PW2 deposed as to how she was deceived and forcibly asked to come to the petitioner's house, where she was sexually harassed. Her mother initially gave a complaint under Girl Missing. Later the victim was traced in the petitioner's house, she was secured and petitioner was arrested. In this case, PW3 and PW4 corroborate the evidence of PW2. The victim is a minor and education certificate produced. The victim had earlier given a statement under Section 164 of Cr.P.C., which she also confirmed in her evidence. The Trial Court on the evidence of witnesses and materials produced, had rightly convicted the petitioner. Hence, she prayed to dismiss the petition.

5. Considering the submissions made and on perusal of the material, it is seen that the petitioner and the victim girl got acquainted through ShareChat and were regularly communicating with each other. The victim admits that it was her mother, who objected this relationship and further she was forcibly



handled. Hence, the victim called the petitioner and gone to his house. With regard to the major offences, the Trial Court acquitted the petitioner. In view of the above background, the conviction of the petitioner requires re-consideration.

6. Accordingly, the substantive sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the appeal and he is ordered to be enlarged on bail, on condition that he 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 trial Court.

7. Further, the petitioner shall appear before the Trial Court once in three months on the first working day at 10.30 a.m., until the disposal of the appeal and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.

8. On breach of any of the aforementioned conditions, the learned Trial Judge is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by herself as laid down by the Hon'ble Supreme Court in **P.K.Shaji Vs. State of Kerala** [(2005) 13 SCC 5560].



9. Accordingly, this Criminal Miscellaneous Petition is ordered.

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13-08-2026

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

Note: Issue order copy on 13.08.2026.

To

1. The Sessions Judge,
Special Court for Exclusive Trial of Cases
under POCSO Act, Tiruvannamalai.
2. The Inspector of Police
Cheyyar Police Station,
Tiruvannamalai District.
3. The Superintendent of Prison,
Central Prison, Vellore.
4. The Public Prosecutor,
High Court of Madras.



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M.NIRMAL KUMAR J.

RSI

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