



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 07.08.2026

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THE HONOURABLE MR. JUSTICE B.PUGALENDHI

Crl.MP(MD)No.12574 of 2026
in
Crl.A(MD)No.972 of 2025

1.Syed Abuthahir

2.Mohammed Riyas

... Petitioners

Vs

1.State of Tamil Nadu,
Rep. by the Inspector of Police,
All Women Police Station,
Sivagangai District.
Crime No.6 of 2013

2.Paul Raj

... Respondents

PRAYER:- Petition filed u/s.430(1) BNSS seeking to suspend the sentence imposed by the learned Judge, Principal Special Court for Exclusive Trial of Cases under the SC / ST Act, Sivagangai, in Spl.SC.No.10 of 2025, dated 30.06.2025.



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Crl.MP(MD)No.1257



For Petitioners : Mr.T.Lajapathi Roy,
Senior Counsel
for M/s.Roy and Roy Associates

For Respondents: Mr.A.Robinson
Government Advocate (Crl. Side)
for R.1

ORDER

The petitioners are Accused Nos.2 and 3 in Spl.S.C.No.10 of 2025 on the file of the Principal Special Court for Exclusive Trial of Cases under the SC / ST Act, Sivagangai. The trial Court, by judgment dated 30.06.2025, convicted and sentenced them as under:

(i) For the offence under Section 366 IPC, to undergo rigorous imprisonment for 10 years and to pay fine of Rs.1,000/- and to undergo rigorous imprisonment for 6 months in default.

(ii) For the offence under Sections 376(2) and 376(2)(n) IPC, to undergo rigorous imprisonment for 10 years and to pay fine of Rs.1,000/- and to undergo rigorous imprisonment for 6 months in default.

2.As against the judgment of conviction and sentence, the petitioners have preferred a Criminal Appeal in Crl.A(MD)No.972 of 2025 and the same



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was admitted by this Court on 04.11.2025. Along with the appeal, they have filed an application seeking suspension of sentence in Crl.MP(MD)No.12598 of 2025 and the same was dismissed as withdrawn on 23.03.2026. This is the second application filed, seeking suspension of sentence.

3.The case of the prosecution, in brief, is that the father of the victim passed away and her mother was mentally ill. Therefore, the victim was under the care of her uncle / the first accused, who, taking advantage of the position, had committed rape on the victim when she was staying in his house. Further, Accused Nos.2 to 5, who were working as auto drivers, had befriended the victim and and they have also committed rape on the victim.

4.Learned Senior Counsel appearing for the petitioners submitted that the victim was not able to specify the date of occurrence in her complaint and that the test identification parade was conducted after the photos of the petitioners were published in the local newspapers. Therefore, the identification made by the victim is doubtful. He also submitted that the petitioners are in jail since 30.06.2025 for more than a year. Hence, he prayed for suspending the sentence.



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5.Learned Government Advocate (Criminal Side) appearing for the respondent police submitted that the victim was 10 years old at the time of occurrence and that the petitioners were auto drivers, who befriended the victim and they have repeatedly committed rape on the victim. According to him, this is a serious nature of offence and therefore, prayed for dismissal of this petition.

6.This Court considered the rival submissions and perused the materials.

7.The petitioners have been convicted for the offences under Sections 366, 376(2) and 376(2)(n) of the IPC. The allegation as against them is that they are auto drivers, who befriended the victim, when she was engaging in begging at the bus stand and have repeatedly committed rape on the victim. The victim has identified the petitioners in the Test Identification parade conducted in the presence of the Judicial Magistrate / PW.17. The medical examination of the victim also revealed that her hymen was not intact.

8.Further, the petitioners have already filed an application seeking suspension of sentence in the month of March 2026 and when this Court



expressed its inclination to reject the application, they withdrew the same.

This is the second application filed by the petitioners seeking suspension of sentence, without establishing any change in circumstances. Considering the serious nature of offence, the materials available as against the petitioners and the fact that no change in circumstances was established, this Court is not inclined to entertain these petitions.

9.In the result, this criminal miscellaneous petition stands dismissed. Since this Court has rejected the petitioners' plea for suspending the sentence, Registry is directed to prepare the typed set of papers and list the appeal under the caption 'Accused in Jail cases' during the first week of September, 2026.

Internet : Yes
Index : Yes / No
NCC : Yes / No

07.08.2026

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To

1.The Inspector of Police,
All Women Police Station,
Sivagangai District.



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2.The Judge,
Special Court for Trial of Cases under the SC /ST Act,
Sivagangai.



CrI.MP(MD)No.1257

B.PUGALENDHI, J.

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