



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2025

CORAM

THE HONOURABLE **MR.JUSTICE M. NIRMAL KUMAR**

Crl.M.P.No.2991 of 2025

in

Crl.A.No.197 of 2025

Vijay @ Vijay Vannian

...Petitioner

Vs

1.The State by,
The Deputy Superintendent of Police,
Panruti Division, Cuddalore District.

2.Ramanujam

...Respondents

PRAYER: Criminal Miscellaneous Petition has been filed under Section 430(1) of BNSS praying to suspend the sentence of imprisonment imposed on the petitioner /appellant by judgment dated 31.01.2025 in Spl.S.C.No.29 of 2019, on the file of the Special Court for exclusive trial of cases under POCSO Act, Cuddalore thereby convicting the petitioner/appellant (i) for alleged offences under Section 3(i)(r)(s) of SC/ST (PoA) Act, 1989 and sentencing the appellant to undergo 2 years simple imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo six months simple imprisonment; (ii) for the offence under Section 66E of the Information Technology Act, 2000 and sentencing to undergo simple imprisonment for a period of two



years and (iii) for the alleged offence under Section 23 of the POCSO Act, 2012 and sentencing to undergo simple imprisonment for a period of one year and to pay a fine of Rs.10,000/-, in default simple imprisonment for a period of six months.

For Petitioner : Mr.T.Saikrishnan
For Respondent : Mr.S.Sugendran
Additional Public Prosecutor
For R2 : Party in person

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by judgment dated 31.01.2025 passed in Spl.S.C.No.29 of 2019 by the learned Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore, pending disposal of the above Criminal Appeal.

2. The petitioner/appellant is arrayed as sole accused in Spl.C.C.No.29 of 2019 on the file of the learned Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore. He has been convicted and sentenced vide impugned judgment dated 31.01.2025, as follows:-

<i>Rank of the accused</i>	<i>Conviction under section</i>	<i>Sentence Awarded</i>
Sole accused	3(i)(r)(s) of Scheduled Caste /	To undergo 2 years



WEB COPY

<i>Rank of the accused</i>	<i>Conviction under section</i>	<i>Sentence Awarded</i>
	Scheduled Tribe (Prevention of Atrocities) Act, 1989	simple imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo six months simple imprisonment
	Section 66E of the Information Technology Act, 2000	To undergo simple imprisonment for a period of two years
	Section 23 of the POCSO Act, 2012	To undergo simple imprisonment for a period of one year and to pay a fine of Rs.10,000/-, in default simple imprisonment for a period of six months

Aggrieved by the said conviction, the petitioner has filed CrI.A.No.197 of 2025 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

3. The contention of the petitioner is that he was not named as accused in the First Information Report (FIR). The case was registered in Crime No.336 of 2016 by the respondent police against the Head Master of the Government school, Anguchettipalayam, a teacher and one Kathirvel. The case was filed because the Headmaster and the teacher forced the defacto



WEB COPY

complainant's daughter, victim, PW.2 and other students belonging to the Scheduled Caste community to clean the school toilet. This incident went viral on social media, leading to the registration of the case.

4. Subsequently, the names of the original accused dropped and the petitioner/appellant was added as an accused. It is alleged that the appellant morphed the victim's face and uploaded an objectionable photograph of the victim girl using a Facebook account under the name of Kathivel.

5. The learned counsel for the petitioner submitted that in this case PW.14 is a Scientific Officer attached to the forensic department given a report Ex.P18, that the petitioner's mobile phone, M.O.1, does not contain any objectionable photographs that were allegedly uploaded to the account of Kathirvel. In such circumstances, the petitioner ought to have been acquitted instead convicted based on moral grounds.

6. The learned Government Advocate (Crl.Side) for the State submitted that, in this case, the defacto complainant's daughter was studying in a school, who belong to Scheduled Caste community, while the petitioner/accused belong to Most Backward Community. The defacto



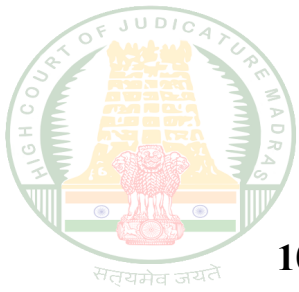
WEB COPY

complainant's daughter and other students were forced to clean the school toilet. This was questioned and the Headmaster was confronted and the media arrived at the school. Based on the victim interview to the media, complaining about the Headmaster and the teachers, as a follow up incident, picture of victim posted in Facebook.

7. The objectionable morphed photograph of the victim girl was found on Facebook, allegedly uploaded by the petitioner. As a result a case was registered, the victims were examined, petitioner was taken into custody and his phone was seized.

8. During the trial, PW.1 to PW.15 examined, Ex.P.1 to Ex.P.18, marked and M.O.1 to M.O.4 were produced. The trial Court based on the evidence of the defacto complainant (PW.1) and the victim (PW.2) and others and an electronic evidence convicted the petitioner.

9. In view of Section 15 A of SC/ST Act, notice served to the defacto complainant and the victim. The defacto complainant appeared in person before this Court.



WEB COPY

10. This Court, on the appearance of the defacto complainant, father of the victim, interacted with him. He informed he is not engaging any counsel on his behalf and he has instructed the learned Government Advocate to make submissions on his behalf, stating that PW.2 continued her education in the same school, completed her schooling, later her graduation.

11. It is seen, the petitioner was not initially a named accused in the FIR. Initially, three persons named the school Headmaster, a teacher and one Kathirvel. The action against all those individuals was later dropped and they were not even shown as witness.

12. The allegation against the petitioner is that he morphed the victim's face who gave the interview against the school authorities for forceful cleaning of toilet by a particular community students, which went viral and that the morphed picture of PW.2 was uploaded on Facebook, which has been projected against the petitioner. However, the petitioner's mobile phone M.O.1, does not contain any objectionable pictures of the victim, which is confirmed by PW.14 and Ex.P18 report. Hence the foundational fact becomes doubtful. So far as the suspension of sentence is concerned, the Trial Court has already suspended the sentence till 02.03.2025



vide its order dated 31.01.2025.

WEB COPY

13. In view of the same, finding prima-facie case is made out and further taking note of the fact that there are arguable points involved in this appeal and it would take some time for the appeal to be taken up for final hearing, This Court is inclined to suspend the sentence imposed on the petitioner.

14. 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. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner/appellant namely -Vijay @ Vijay Vannian, on the following conditions:

(i) The petitioner/appellant is ordered to be released on bail on his executing a personal bond along with two sureties for a sum of Rs.10,000/- each before the learned Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore, subject to furnishing undertaking that he will co-operate in the hearing of the present Appeal.

(ii) The petitioner/appellant shall appear



WEB COPY



before the trial Court once in three months on the first working day of English Calendar month at 10.30 a.m., until the disposal of the criminal 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.

16. Accordingly, this Criminal Miscellaneous Petition is ordered.

28.02.2025

rpl

To

1.The Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore .

2.The Deputy Superintendent of Police,
Panruti Division,
Cuddalore District.

3.The Public Prosecutor,
High Court of Madras, Chennai.



WEB COPY



M. NIRMAL KUMAR, J.

rpl

CrI.M.P.No.2991 of 2025
in
CrI.A.No.197 of 2025

28.02.2025