



Crl.M.P.No.9474 of 2025 in Crl.A.No.368 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.M.P.No.9474 of 2025 in
Crl.A.No.368 of 2025

Vijayakuamr

... Petitioner

Vs.

State represented by
The Inspector of Police
Wellington Police Station
Wellington,
The Nilgiris District.
(Crime No.419 of 2020)

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 430 of B.N.S.S. to grant suspension of sentence for 3 months in Crl.A.No.56 of 2023 and Crl.A.No.368 of 2025.

For Petitioner : Mr.T.Shanmugam
For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor



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ORDER

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This Criminal Miscellaneous Petition has been filed by the petitioner/accused to suspend the sentence imposed by this Court in Crl.A.No.56 of 2023 and Crl.A.No.368 of 2025, by judgment dated 29.04.2025, three months.

2. The case of the petitioner is that based on the complaint preferred by the father of the victim girl, a case was registered by the respondent police in Crime No.419 of 2020 "for girl missing. Subsequently, the victim girl was secured and based on her statement, the respondent police altered the offence into Sections 363 IPC and 5(l) read with 6 of POCSO ACT, 2012 @ 363 and 343 IPC @ 5(l) read with 6 of POCSO Act, 2012 and after completion of investigation, they laid charge sheet and the same was taken on file in Special Calender Case No.33 of 2021 on the file of the Sessions Judge Magalilr Needhimandram, (FTMC), Udthagamandalam at Nilgiris. The trial Court after completion of trial, though convicted the accused for the IPC offences viz.



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Sections 363 and 343 IPC, acquitted the petitioner from the offence under

Section 5(l) read with 6 of POCSO Act. Aggrieved by the judgment of conviction and sentence passed by the trial Court for the offence under Sections 363 and 343 IPC, the petitioner filed the appeal in Crl.A.No.56 of 2023. Subsequently, challenging the judgment of acquittal of the petitioner from the charge under POCSO Act, the State preferred the appeal in Crl.A.No.368 of 2025.

3. This Court heard both the appeals together and by judgment dated 21.04.2025, dismissed the appeal filed by the accused in Crl.A.No.56 of 2023 and allowed the appeal filed by the State in Crl.A.No.368 of 2025 by convicting the petitioner/accused for the offence under Section 3 punishable under Section 4(1) of POCSO Act and sentenced to undergo 10 years of simple imprisonment and to pay fine of Rs.1,000/- in default of payment of fine amount, to undergo simple imprisonment for a further period of six months. Hence, the present petition is filed seeking to suspend the sentence.



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4. The learned counsel for the petitioner/accused submitted that due to

love affair and fear of marriage arranged by the parents of the victim girl, she herself eloped with the petitioner and pending trial the, the petitioner married to the victim girl and now the victim is pregnant. Further, the petitioner's father is no more and that the petitioner is the only person, who is taking care of his wife/victim and mother. He further submitted that the petitioner without knowing the rigorous nature of the POCSO Act, has committed the offence. Hence, the present petition is filed seeking to suspend the sentence imposed by this Court.

5. Admittedly, pending trial, the victim married to the petitioner. But the offence of penetrative sexual assault on the victim, who was a child, at the time of occurrence, is grave in nature. The Hon'ble Supreme Court in the case of ***Ramji Lal Bairava and Another Vs. State of Rajasthan*** reported in **2024 SCC Online SC 3193** has held that since the offence under the POCSO Act is against Society, even if the matter is settled between the victim and the



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accused, that cannot be a sole ground to set the accused free. Therefore this

Court is not inclined to suspend the sentence. Imposed on the accused.

6. Accordingly, this Criminal Miscellaneous Petition is dismissed.

29.04.2025

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

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1. The Sessions Judge, Magalir Needhimandram (FTMC),
Udhagamandalam at Nilgiris
2. The Inspector of Police
Wellington Police Station
Wellington, The Nilgiris District.
3. The Public Prosecutor
High Court of Madras
4. The Superintendent of Prison,
Central Prison, Coimbatore.



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P.VELMURUGAN. J.

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