



Crl.MP.(MD).No.606 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2025

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.MP.(MD).No.606 of 2025

and

Crl.A(MD)No.45 of 2025

P.Kalaivanan

... Petitioner/ Appellant/
Accused No.1

Vs.

The State of Tamil Nadu represented by its,
The Inspector of Police,
All Women Police Station,
Ramanathapuram,
Ramanathapuram District.
(In Crime No.21 of 2020)

... Respondent/Respondent/
Respondent

PRAYER : Petition filed under Section 430(1) of BNSS, 2023, to suspend the sentence imposed upon the petitioner by the learned Sessions Judge, Mahila Court (Fast Track Court), Ramanathapuram, in Spl.S.C.No.41 of 2021 dated 30.12.2024, pending disposal of the Criminal Appeal.

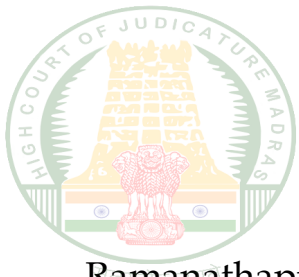
For Petitioner	:	Mr.R.Murugan
For Respondent	:	Mr.M.Sakthi Kumar
		Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence and

fine passed by the learned Sessions Judge, Mahila Court (Fast Track Court),

<https://www.hmc.tn.gov.in/judis>



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Ramanāthapuram, in Spl.S.C.No.41 of 2021 dated 30.12.2024, to enlarge the petitioner
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on bail till the disposal of the Criminal Appeal.

2. The case of the prosecution is that the petitioner is the accused No.1 in Spl.S.C.No.41 of 2021 and facing charges under Sections 342, 294(b), 506(i) and 7 r/w 8 of POCSO Act. As per the allegation, the defacto complainant is the mother of the victim, who is aged about 14 years at the time of occurrence. The defacto complainant went to her mother's house along with her children to celebrate the temple festival. On 10.12.2020, when the victim girl was in her grand-mother's house alone, the accused is said to have tried to commit the sexual assault upon the victim girl. At that time, in order to save herself, she bit his hand and ran out of the house and the same was witnessed by others. On knowing the occurrence, the defacto complainant went to the house of the petitioner and directed A2 & A3, who are the parents of A1 to warn A1. Thereby, A1 to A3 went to the house of the defacto complainant and abused the defacto complainant in filthy language and abused defacto complainant and her daughter with dire consequences. Hence, the complaint.

3. On receipt of the complaint, the respondent police registered a case in Crime No.21 of 2020 for the offences under Sections 448, 3342, 294(b), 506(i) of IPC and 7 r/w 8 of POCSO Act.

4. The respondent police, after completing the investigation, has laid a final



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report before the learned Sessions Judge, Mahila Court (Fast Track Court),
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Ramanathapuram, and the same was taken on file in Spl.S.C.No.41 of 2021 for the
offences under Sections 448, 342, 294(b), 506(i) of IPC and 7 r/w 8 of POCSO Act.

5. During the trial, the prosecution has examined 8 witnesses as P.W.1 to P.W.8 and exhibited 9 documents as Ex.P.1 to Ex.P.9 were marked and 9 Material Objects were marked as MO.1 to Mo.9. On the side of the defence, no one was examined and no document was marked and one material object was marked as MO.1.

6. The learned Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, acquitted the petitioner from the offence under Sections 294(b) & 506(1) of IPC and convicted the him for the offence under Section 448, 342 of IPC and 7 r/w 8 of POCSO Act, and sentenced him to undergo 6 months Rigorous Imprisonment and to pay a fine of Rs.500/- each in default, to undergo 2 months Simple Imprisonment for each offence under Sections 448, 342 of IPC and sentenced him to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.3,000/- in default to undergo 6 months Simple Imprisonment for the offence under Section 7 r/w 8 of POCSO Act.

7. Thereafter, the trial Court has granted interim suspension of sentence to the petitioner.

8. Challenging the above said conviction and sentence, the petitioner has



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preferred the present Criminal Appeal along with the above Miscellaneous Petitions seeking suspension of sentence.

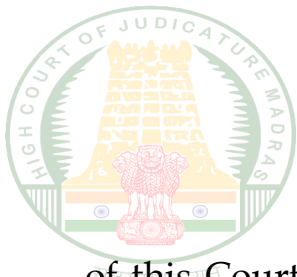
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9. The learned Counsel for the petitioner submitted that there is inordinate and unexplained delay in lodging the complaint. The petitioner and the defacto complainant are the close relative. Due to previous enmity between the petitioner's brother namely, Karikalan and the sister of the defacto complainant namely, Vellaiyammal, a false case has been foisted against the petitioner. Further, a number of contradictions between the evidences regarding the alleged occurrence. In the said circumstance, the offence is not made out against the petitioner. Hence, he seeks to grant of suspension of sentence to the petitioner.

10. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

11. This Court has carefully considered the rival submissions by either side and also perused the materials available on record.

12. Considering the facts and circumstances of the case and also considering the fact that the trial Judge has already granted interim suspension of sentence to the petitioner, and there is no antecedent against the petitioner and certain infirmities, inconsistencies and contradictions in material particulars brought to the knowledge



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of this Court, this Court prima facie feels that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future. Hence, this Court is inclined to grant of suspension of sentence.

13. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the Sessions Judge, Mahila Court (Fast Track Court), Ramanathapuram,

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
21/01/2025

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/01/2025
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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1. The Sessions Judge,
Mahila Court (Fast Track Court),
Ramanathapuram.
2. The Inspector of Police,
All Women Police Station,
Ramanathapuram,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.MURUGAN, Advocate (SR-546[I] dated 21/01/2025)

ORDER
IN
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and
Crl.A(MD)No.45 of 2025
Date :21/01/2025

RS/GSV/SAR-(23.01.2025) 6P 5C
Madurai Bench of Madras High Court is issuing
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