



Crl.MP(MD) No.2916 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.MP(MD) No.2916 of 2025

in

Crl.A(MD) No.286 of 2025

Vishwanathan @ Vishwa

... Petitioner

Vs.

State of Tamil Nadu,
Rep by the Inspector of Police,
Kallimandayam Police Station,
Dindigul District.

... Respondent

For Petitioner : Ms.P.Krishnaveni

For Respondent : Mr.A.S.Abdul Kalam Azad
Government Advocate (Crl Side)

ORDER

The petitioner, an accused in Spl.S.C.No.37 of 2023, on the file of the Special Court for POCSO Act Cases, Dindigul was found guilty by the trial Court and was convicted and sentenced as under:-



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Sl.No	Sections	Punishment	Fine amount	Default
1.	363 IPC	3 years Rigorous imprisonment	Rs.5000/-	6 months simple imprisonment
2.	Section 9 of Prohibition of Child Marriage Act,2006	2 years Rigorous Imprisonment	Rs.50,000/-	6 months simple imprisonment
3.	Section 10 of POCSO Act	5 years Rigorous imprisonment	Rs.50,000/-	1 year simple imprisonment

As against the conviction and sentence imposed by the trial Court, the petitioner has filed a Criminal Appeal in Crl.A(MD) No.286 of 2025 and the same is admitted today. The petitioner has also moved this application to suspend the sentence imposed on him by the trial Court.

2.The learned counsel appearing for the petitioner by referring to the school

Transfer Certificate projects that the age of this petitioner at the time of alleged



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occurrence was 17 years and he was immature at that time. The girl was 15 years.

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Both of them had a love affair with each other. It is the victim girl, who insisted this petitioner to take away from her house. They went to a temple and married. Thereafter they have stayed in a relative's house. On the advice of the relative, they returned back to the occurrence place and surrendered before the police station. The learned counsel by relying on the statement of the victim girl recorded under Section 164 of Cr.P.C submits that even according to the victim girl, there was no physical relationship, however, this petitioner has hugged and kissed her. The learned counsel further submits that both the petitioner and the victim girl are in the tender age at the relevant point of time and without knowing the consequences, they have committed this mistake. It is also on the compulsion of the victim girl.

3.The learned Government Advocate appearing for the respondent submits that this petitioner was 19 years at the time of occurrence. He has not pleaded that he was 17 at the time of occurrence. The document now projected by the petitioner was not placed before the trial Court. Therefore, according to him, the contention that this petitioner was a minor at the relevant point of time cannot be accepted in the appeal. He further submits this petitioner as well as his counsel have not pleaded any defence during the trial in this regard and therefore, he cannot make out such a point



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in this appeal.

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4.This Court considered the rival submissions made and also perused the materials placed on record.

5.As per the statement of the victim girl recorded under Section 164 of Cr.P.C, it appears that the victim girl had an affair with this petitioner. From the certificate now placed before this Court, it appears that this petitioner was 17 years at the time of occurrence. However, this document has not been placed before the trial Court during the trial proceedings. The learned counsel who appeared for the petitioner has also failed to cross examine the witnesses properly.

6.Considering the age of this petitioner, the manner of the offence as projected by the prosecution, the period of incarceration and considering that the petitioner's counsel is having some arguable points in the appeal, this Court is inclined to suspend the sentence imposed on this petitioner with certain conditions.

7. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioner is ordered to be enlarged



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on bail on executing a bond for Rs.25,000/- (Rupees Twenty Five Thousand only)

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with two sureties each for a like sum to the satisfaction of the learned Special Court for POCSO Act Cases, Dindigul and on further condition that the petitioner shall stay at Tiruppur and report before the Inspector of Police, Avinashi Police Station, Tiruppur, daily at 10.30 a.m., and he shall not visit Oddanchatram till the disposal of the appeal.

sd/-

05/03/2025

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05/03/2025

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

VRN

TO

1 THE JUDGE,
SPECIAL COURT FOR POCSO ACT CASES, DINDIGUL.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE,
KALLIMANDAYAM POLICE STATION,
DINDIGUL DISTRICT.

4 THE INSPECTOR OF POLICE,
AVINASHI POLICE STATION, TIRUPPUR.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



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+1 CC to M/s.P.KRISHNAVENI, Advocate (SR-2406[I] dated 05/03/2025)

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ORDER
IN
CrI.MP(MD) No.2916 of 2025
in
CrI.A(MD) No.286 of 2025
Date :05/03/2025

SA/SAR. /05.03.2025/6P/7C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.