



CRL MP(MD)No.3047 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 23 .04.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRL MP(MD)No.3047 of 2024
in CrI A(MD)No.207 of 2024

Karuppasamy

... Petitioner

Vs

The State of Tamil Nadu represented
by the Inspector of Police,
Appaiyanaickenpatti Police Station,
Virudhunagar District.

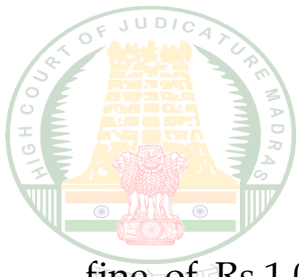
... Respondent

Prayer: Petition filed under Section 389(1) of CrPC to suspend the sentence and conviction made in the judgment dated 09.05.2023 passed by the Special Court for POCSO Act Cases, Virudhunagar district at Srivilliputhur in SplSC.No.90 of 2022 and release the petitioner on bail pending disposal of the appeal.

For Petitioner : Mr.V.Varadharajan
For Respondent : Mr.P.Kottaichamy,
Government Advocate (CrI Side)

ORDER

The petitioner / accused in SplSC.No.90 of 2022 on the file of the Special Court Exclusive for Trial of Cases under POCSO Act, Virudhunagar was found guilty, convicted and sentenced to undergo 3 years rigorous imprisonment with a



CRL MP(MD)No.3047 of 2024

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fine of Rs.1,000/-, in default, to undergo 3 months simple imprisonment for the offence under section 363 IPC; to undergo 20 years rigorous imprisonment with a fine of Rs.1,000/-, in default, to undergo 6 months simple imprisonment for the offence under Section 6 of the POCSO Act by judgment dated 09.05.2023. As against the conviction and sentence, the petitioner has filed an appeal in CrIa(MD)No.207 of 2024 and it has been admitted by this Court. Along with the appeal, the petitioner has filed this petition to suspend the sentence of imprisonment.

2.The allegations as against the petitioner is that he has sexually abused a mentally retarded girl of 17 years by taking her to a secluded place.

3.The learned Counsel for the petitioner submits that the victim girl informed that she was assaulted by the petitioner, but a case of sexual assault has been foisted against the petitioner. Though PW3 victim had answered in chief, she has not replied to the questions in the cross examinations. Even if the case of the prosecution is admitted, the ingredients will not attract the offence under Sections 363 IPC and Section 6 of the POCSO Act. According to the doctor evidence, there is no external injury on the victim and her opinion was not direct. Further as per the forensic report, no semen was found and no spermatozoa was found on the swab test and smear test. There is a delay of 37 days in lodging the complaint. Further this complaint has been foisted due to the motive in respect of the panchayat election,



CRL MP(MD)No.3047 of 2024

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where one Vadivel the brother of the petitioner and one Dharmar, a relative of PW1 and PW2 contested. The petitioner is in jail from the date of conviction. Therefore, he prayed that the sentence imposed on the petitioner be suspended pending the criminal appeal.

4.The learned Government Advocate (Crl Side) appearing for the respondent submits that the victim is a mentally retarded girl and she was 17 years old at the time of occurrence. She was attending anganwadi school. She was examined as PW3 through a Special Instructor PW4. PW1 mother of the victim and PW2 her aunt have deposed about the commission of offence by the petitioner. PW4 has deposed that when she examined the victim girl in the presence of the police and the mother of the victim, she has informed orally and by showing gestures that the petitioner has touched her breasts, kissed her on cheeks and lips and he inserted his private part into her private part. Further according to the doctor, who examined the victim has stated that hymen was ruptured and she has given wound certificate to that effect. According to the prosecution witnesses, such an offence had been committed several times for two months. The trial Court has rightly considered the prosecution witnesses and discussed in detail and convicted the petitioner. Therefore, he opposes for suspending the sentence of imprisonment.



CRL MP(MD)No.3047 of 2024

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5.This Court considered the rival submissions made and perused the material placed on record.

6.Admittedly the victim is a mentally retarded girl and at the time of occurrence she was 17 years old. The evidence of PW1, PW2, PW3 and PW4 and the wound certificate show the nature of commission of offence. It appears that the petitioner taking advantage of the condition of the victim has committed the offence. Though the petitioner has raised certain grounds, the same can be considered only in the appeal. Therefore, this Court is not inclined to entertain this petition on the grounds raised by the petitioner for suspending the sentence imposed on the petitioner. Accordingly, this petition is dismissed.

sd/-
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/04/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSK

To

1 THE JUDGE,
SPECIAL COURT (POCSO ACT CASES),
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR.

2.The Inspector of Police,
Appaiyanaickenpatti Police Station,
Virudhunagar District.

3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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



CRL MP(MD)No.3047 of 2024

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai

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ORDER
IN
CRL MP(MD)No.3047 of 2024
in CrI A(MD)No.207 of 2024
Date :23/04/2025

MK/SAR /25.04.2025 5P/5C

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