



Crl.M.P.(MD)No.3055 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.3055 of 2024

in Crl.A.(MD)No.248 of 2023

N.Selvamani,
S/o.Nachimuthu,
No.32-B, East Devathanam,
Town Station Road,
Trichy.

Petitioner(s)

versus

The State rep. by
The Inspector of Police,
Fort All Women Police Station,
Trichy District.

Respondent(s)

For Petitioner(s):

Mr.E.Somasundaram
Advocate

For Respondent(s):

Mr.P.Kottaichamy,
Government Advocate (Crl. Side)

ORDER

The petitioner is the sole accused in Spl.S.C.No.43 of 2020 on the file of the learned Sessions Judge, Mahila Court, Tiruchirappalli. He was tried for the offence under Sections 366(A), 376AB of IPC and Section 3(d) r/w. 4(1)(a), 7 r/w. 8, 11(i) r/w. 12 of POCSO Act. In conclusion of trial, the trial Court, by its Judgment dated



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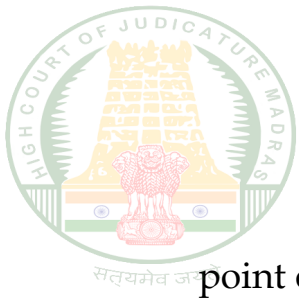
20.01.2023, found the petitioner guilty for the offence under Section 366 IPC and
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Section 5(m) r/w. 6(1) of POCSO Act 2012 and convicted and sentenced him as
under:

(i) for the offence under Section 366 IPC, to undergo five years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo three months simple imprisonment;

(ii) for the offence under Section 5(m) r/w. 6(1) of POCSO Act 2012, to undergo 20 years rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo six months simple imprisonment.

Challenging the Judgment of conviction and sentence, the petitioner has filed an appeal in Crl.A.(MD)No.248 of 2023 and the same has been admitted by this Court on 28.03.2023. Along with the appeal, the petitioner has already moved a petition in Crl.M.P.(MD)No.4999 of 2023 seeking to suspend the sentence and the same was dismissed by this Court by order dated 12.06.2023 as under:

“9. Considering the facts and circumstances of the case and also the seriousness and gravity of the offence allegedly proved and also the fact that the impugned Judgment was passed on 23.08.2022 and the period of incarceration and also taking note of the period of incarceration, this Court is not inclined to suspend the sentence at this



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point of time.”

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This is the second petition moved by the petitioner for suspending the sentence on the ground that the appeal has not been taken up for final disposal and the petitioner is in jail for three years and four months.

2. The learned counsel appearing for the petitioner submits that the occurrence had taken place on 16.03.2020 at about 5.00 p.m. and the complaint was lodged on the same day at about 10.30 p.m. The statement of the victim girl under Section 161 Cr.P.C. was recorded on 17.03.2020. However, the victim girl was produced before the Judicial Magistrate, for recording the statement under Section 164 Cr.P.C., on 24.06.2020, i.e. after the delay of 100 days. The learned counsel has also pointed out that the occurrence took place at coconut grove and the owner of the coconut grove, namely, P.W.8 was also examined as a witness. However, P.W.8 has not supported the case of the prosecution and he deposed that his land is a vacant land and there is no coconut grove in that place.

3. The learned counsel for the petitioner, by referring the evidence of the Investigating Officer and the rough sketch, has submitted that the place of occurrence has not been proved by the prosecution. Therefore, the prosecution has not proved the case beyond reasonable doubt. According to the learned counsel, the petitioner is having certain arguable points in his favour. Since the appeal has not been taken up



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for final hearing and the petitioner is in jail for three years and four months, he seeks to suspend the sentence imposed by the trial Court. The learned counsel for the petitioner has also produced an undertaking affidavit filed by the petitioner that he will not visit the occurrence village and he will not disturb the victim girl at any point of time.

4. Heard the learned Government Advocate (Crl. Side) appearing for the respondents.

5. This is the 2nd petition filed by the petitioner to suspend the sentence imposed by the trial Court. The earlier petition filed by the petitioner to suspend the sentence in Crl.M.P.(MD)No.4999 of 2023 was dismissed by this Court by order dated 12.06.2023. The petitioner is in jail for three years and four months. Though the earlier petition was dismissed by this Court, the appeal could not be taken up for final hearing for want of time. Further, the petitioner has filed an undertaking affidavit that he will not visit the occurrence village and will not disturb the victim girl at any point of time.

6. Considering the points raised by the petitioner, period of incarceration, the undertaking affidavit filed by the petitioner and also for the reasons that the appeal could not be taken up immediately, this Court is inclined to allow this petition.



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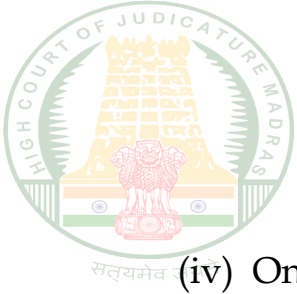
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7. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioner is ordered to be enlarged on bail on the following conditions:

(i) The petitioner shall execute a bond for Rs.50,000/- (Rupees fifty thousand only), with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Trichy.

(ii) the persons who are giving sureties must be the close relatives of the petitioner. The sureties shall file an affidavit before the respondent Police along with the affidavit as filed before this Court that the petitioner will not visit the occurrence village and will not disturb the victim girl at any point of time. The petitioner shall also file a similar affidavit before the respondent Police.

(iii) The petitioner shall stay at Tiruppur and report before the Inspector of Police, Tiruppur North Police Station, Tiruppur, daily at 10.30 a.m. until further orders.



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(iv) On violation of any of the conditions by the petitioner, the respondent Police shall move an application for cancellation of the relief granted to the petitioner.

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30/04/2025
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

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To

- 1.The learned Judicial Magistrate No.I,
Trichy.
2. The Chief Judicial Magistrate,
Trichy.
3. The Superintendent,
Central Prison, Trichy.
4. The Inspector of Police,
Tiruppur North Police Station, Tiruppur.
- 5.The Inspector of Police,
Fort All Women Police Station,
Trichy District.



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

+1. C.C. to M/S.SOMASUNDARAM E Advocate SR.No.5033(I) DT.29.04.2025

ORDER IN
CRL MP(MD) No.3055 of 2024
in Crl.A.(MD)No.248 of 2023
Date :29/04/2025

PP/SAR. /30.04.2025/7P/8C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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