



CRL MP(MD) NO. 3114 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17-03-2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

CRL MP(MD) NO. 3114 of 2024

in CRL A(MD)NO.6 of 2022

Mohana Prakash

Petitioner(s)

Vs

The State of Tamil Nadu
Rep by The Inspector of Police,
All Women Police Station,
Sekkanoorani, Usilampatti,
Madurai District. Crime No. 425/2014

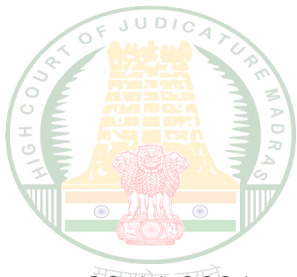
Respondent(s)

For Petitioner(s):
M.Karunanithi

For Respondent(s):
A.S.Abul Kalam Azad
Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition is filed by the petitioner /accused to suspend the sentence imposed as against him by the learned Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, in S.C.No.14 of 2015, dated



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29.11.2021.

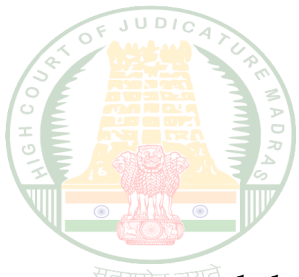
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2. There are two accused and the trial Court found them guilty for the offences charged. Insofar as the petitioner / first accused is concerned, the trial Court convicted and sentenced him as under:-

- To undergo one year imprisonment and a fine of Rs.1000/-, i/d to undergo simple imprisonment for three months, for the offence u/s.342 r/w 34 IPC;
- To undergo ten years imprisonment and a fine of Rs.1000/-, i/d to undergo simple imprisonment for one year, for the offence u/s.366 r/w 34 IPC;
- To undergo rigorous imprisonment for twenty years and a fine of Rs.5000/-, i/d to undergo simple imprisonment for one year, for the offence u/s.5(g), 6 of POCSO Act;
- To pay a sum of Rs.50,000/- as compensation to the victim.

3. This is the fifth application filed by the petitioner for suspending the sentence and the earlier applications filed by him were dismissed by this Court. The petitioner has now moved this application that even after the dismissal orders of this Court, the main appeal has not been taken up for final hearing and that he is having sufficient grounds in the appeal.

4. Learned Counsel for the petitioner/appellant, by referring to the evidence of the Radiologist [PW12] submitted that the age of the victim would be around 17 to 18



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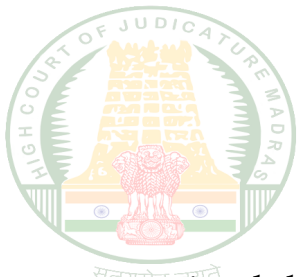
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years and therefore, according to him, the victim cannot be stated to be a minor. By referring to the evidence of the Scientific Expert [PW13] and the Doctor, who examined the victim, he submitted that no semen was detected and therefore, the allegation of rape is not possible. The petitioner is in prison for the past 3 years and 6 months and the co-accused has already been released on bail. Therefore, he prayed for suspending the sentence.

5.The learned Government Advocate appearing for the State submitted that the trial Court has considered the evidence and the documents produced by the prosecution and rightly found the petitioner guilty and convicted. Therefore, he has raised his objection to suspend the sentence imposed on the petitioner, pending this appeal.

6.This Court considered the submissions made by the learned Counsel on either side. This Court has also perused the earlier orders passed by this Court, the statement of the victim recorded u/s.164 CrPC, her evidence and also the evidence of the Doctor.

7.The victim child was aged about 15 years at the time of occurrence. She was studying 10th standard then and her transfer certificate was marked. Her father is working as a Watchman in the CSI Church and therefore, she used to study at the Marriage Hall attached to the Church. Taking advantage of her loneliness at the place of occurrence, the first accused, along with the second accused, forcibly



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committed the rape. The second accused, who facilitated the first accused to commit the offence, has also ran away after sometime. However, the first accused has committed penetrative sexual assault.

8.PW1, the mother of the victim, has stated that her child was suffering with pain and therefore, she has applied oil on her private parts. Moreover, the victim was taken to the Doctor for examination only on the next day. This would explain the non-availability of semen. The Doctor, who examined the victim, has clearly stated that her hymen was ruptured and there was oozing of blood at the time of examination. Therefore, this Court is not inclined to entertain this application filed by the petitioner for suspending the sentence.

Accordingly, this criminal miscellaneous petition stands dismissed. It appears that the typedset of papers have already been prepared and the appeal is of the year 2022. Registry is to list the main appeal for final disposal in the regular course.

sd/-
17/03/2025

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/03/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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To

1 THE JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, MADURAI.

2. The Inspector of Police,
All Women Police Station,
Sekkanoorani, Usilampatti,
Madurai District.

3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

ORDER

IN

CRL MP(MD) NO. 3114 of 2024

in CRL A(MD)NO.6 of 2022

Date :17/03/2025

MK/VR/SAR /02.04.2025 5P/5C

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