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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2025

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THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.5531 of 2024

in Crl.A.(MD)No.481 of 2024

Balraj,
S/o.Ponnaiyan,
Anandhathoppu,
Pachur North, Orathanadu,
Thanjavur District.

Petitioner(s)

versus

State,
Rep. by the Inspector of Police,
All Women Police Station,
Pattukkottai,
Thanjavur District.

Respondent(s)

For Petitioner(s):

M/s.A.Devaki, Advocate

For Respondent(s):

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

ORDER

The petitioner is the 2nd accused in Spl.S.C.No.96 of 2019 on the file of the

Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur.

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



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After the trial, the trial Court, by its Judgment dated 14.02.2023, found the petitioner guilty for the offence under Sections 5(l), 5(j)(ii) of POCSO Act, 2012, punishable under Section 6 of POCSO Act and Section 506(i) IPC and convicted and sentenced him as under:

Sl. No.	Section of Law	Sentence of Imprisonment and fine
1.	u/s.5(l), 5(j)(ii) of POCSO Act 2012, punishable under Section 6 of POCSO Act, 2012	To undergo rigorous imprisonment for 25 years and to pay a fine of Rs.75,000/- and in default, to undergo rigorous imprisonment for 1 year.
2.	u/s.506(i) IPC	To undergo rigorous imprisonment for 2 years and to pay a fine of Rs.5,000/- and in default, to undergo rigorous imprisonment for 2 months.

Challenging the Judgment of conviction and sentence, the petitioner has preferred an appeal in CrI.A.(MD)No.481 of 2024 and the same was admitted by this Court on 06.06.2024. The petitioner has also moved this application to suspend the sentence imposed on him by the trial Court.

2. The case of the prosecution is that on 06.01.2018 at 11.00 a.m. the 1st accused went to the house of the victim girl and expressed his love to her and by making false promise that he would marry her, had physical relationship with her on several times, whenever she was alone in the house. On knowing the same, the petitioner/A2 went to the house of the victim girl on 03.02.2018 at 11.00 a.m. and by



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threatening her, he had physical relationship with her on several times and made her pregnant. Hence, the case.

3. The learned counsel appearing for the petitioner submits that the learned trial Judge convicted the accused only based on the evidence of P.W.1, but, there is no corroborative evidence to support the evidence of P.W.1. Further, P.W.2 to P.W.6 are close relatives of the victim girl and except them, no other independent witnesses have been examined to prove the case of the prosecution. There are material irregularities and lacunae in the investigation process. Further, there was a delay in lodging the FIR, for which, there was no proper explanation given by the prosecution. Therefore, there are arguable points in this appeal in favour of the petitioner. Since the petitioner is in jail from the date of conviction, she prays for suspending the sentence imposed on him.

4. The learned Government Advocate (Crl. Side) submits that at the time of occurrence, the age of the victim girl was 16 years and the petitioner, by threatening the victim girl, had physical relationship on several times and made her pregnant and she also delivered a baby. He further submits that the prosecution has conducted DNA test and as per the DNA report, it was also matched with the petitioner. Therefore, he strongly opposed for suspending the sentence.

5. Considering the nature of offence and also considering the available



materials as against the petitioner, this Court is not inclined to suspend the sentence.

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6. Accordingly, this Criminal Miscellaneous Petition is dismissed.

sd/-
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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 SESSIONS JUDGE, PRINCIPAL SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT, THANJAVUR.
- 2 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.
- 3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PATTUKKOTTAI, THANJAVUR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.5531 of 2024
Date :14/03/2025

NBF/GSV / SAR/ (21/03/2025) 4P/5C

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