



Crl.M.P.(MD)No.6587 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.6587 of 2023

in Crl.A.(MD)No.335 of 2023

Masithurai @ Masiyappan,
S/o.T.P.Sankaran,
Ramapattinamputhur,
Ottamsaththiram Taluk.

Petitioner(s)

versus

State rep. by
Inspector of Police,
Chathrapatti Police Station,
Dindigul District.

Respondent(s)

For Petitioner(s):

Mr.A.Balaji,
Advocate

For Respondent(s):

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

ORDER

The petitioner is the sole accused in Spl.S.C.No.21 of 2017 on the file of the Fast Track Mahila Court, Dindigul. After the trial, the trial Court, by its Judgment dated 10.09.2022, found the petitioner guilty for the offence under Section 366 IPC and

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



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Section 4 of POCSO Act and convicted and sentenced him as follows:

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(i) for the offence under Section 366 IPC, to undergo 7 years rigorous imprisonment and to pay a fine of Rs.10,000/-, with the default sentence of six months simple imprisonment.

(ii) for the offence under Section 4 of POCSO Act, to undergo 20 years rigorous imprisonment and to pay a fine of Rs.20,000/-, with the default sentence of six months simple imprisonment.

Challenging the Judgment of conviction and sentence, the petitioner has preferred an appeal in Crl.A.(MD)No.335 of 2023 along with the petition for suspending the sentence. The Criminal Appeal was admitted by this Court on 24.04.2023.

2. The learned counsel appearing for the petitioner submits that the age of the victim girl was 16 years at the time of occurrence. The petitioner and the victim girl loved each other and they got married without knowing the consequence. According to him, the petitioner was not aware that they cannot perform their marriage in the tender age. Believing that they got married, they had physical relationship. Later, the victim girl was rescued by the police.

3. The learned counsel for the petitioner, by referring the statement of the victim girl recorded under Section 164 Cr.P.C. and the evidence of the victim girl, submits



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that even according to the victim girl, she had a love affair with the petitioner and she voluntarily went along with the petitioner with an intention of getting married and thereafter, they had physical relationship under the impression that they got married.

4. The learned counsel for the petitioner further submits that P.W.14-Doctor, who examined the victim girl, deposed that there was no external injury and she was not pregnant. Since the petitioner is in jail from 10.09.2022, he seeks for suspending the sentence.

5. The learned Government Advocate (Crl. Side) submits that at the time of occurrence, the age of the victim girl was 15 years and 8 months and she was studying 11th standard in a school. The petitioner had induced the victim girl and taken her in a motorcycle. Thereafter, the petitioner married the victim girl by tying a thalli and had physical relationship with the victim girl. According to him, the offence has been proved and therefore, the petitioner was convicted by the trial Court as stated supra.

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

7. In the statement recorded under Section 164 Cr.P.C., the victim girl stated that she voluntarily went along with the petitioner with an intention of getting married. But, according to the learned counsel for the petitioner, the petitioner was



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not aware that they cannot perform their marriage in the tender age.

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8. The petitioner has raised certain arguable points, which can be considered only during the final hearing of the appeal. However the appeal could not be taken up for final hearing for want of time. Considering the points raised by the petitioner, his period of incarceration and for the reasons that the appeal could not be taken up immediately, this Court is inclined to allow this petition.

9. 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 executing a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the Fast Track Mahila Court, Dindigul and on further conditions that the petitioner shall stay at Tiruppur and appear before the Inspector of Police, Tiruppur North Police Station, Tiruppur, daily at 10.30 a.m. till the disposal of the appeal and he shall not visit the village of the victim girl till the disposal of the appeal.

sd/-
07/03/2025

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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
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1 THE FAST TRACK MAHILA JUDGE,
FAST TRACK MAHILA COURT, DINDIGUL.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

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

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

+1 CC to M/s.A.BALAJI, Advocate (SR-2562[I] dated 07/03/2025)

ORDER

IN

Crl.M.P.(MD)No.6587 of 2023

in Crl.A.(MD)No.335 of 2023

Date :07/03/2025

SA/GSV/SAR. /10.03.2025/5P/7C

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