



Crl.M.P.(MD)No.4100 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2025

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THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.4100 of 2025

in Crl.A.(MD)No.132 of 2025

M.Muthuraj,
S/o.Muniyasamy,
North Street,
Ettayapuram,
Thoothukudi District.

Petitioner(s)

versus

State of Tamil Nadu rep. by
The Inspector of Police,
All Women Police Station,
Vilathikulam,
Thoothukudi District.

Respondent(s)

For Petitioner(s):

Mr.C.Mayil Vahana Rajendran
Advocate

For Respondent(s):

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

ORDER

The petitioner is the sole accused in S.C.No.207 of 2019 on the file of the Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi. After the trial, the trial Court, by its Judgment dated 31.12.2024, found the petitioner guilty for the offence



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under Sections 376(2)(l) and 417 IPC and convicted and sentenced him as follows:

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(i) for the offence under under Section 376(2)(l) IPC, to undergo 10 years rigorous imprisonment and to pay a fine of Rs.3,000/-, with the default sentence of six months simple imprisonment.

(ii) for the offence under Section 417 IPC, to undergo six months simple imprisonment and to pay a fine of Rs.1,000/-, with the default sentence of one month simple imprisonment.

Challenging the Judgment of conviction and sentence, the petitioner has preferred an appeal in Crl.A.(MD)No.132 of 2025 and the same was admitted by this Court on 30.01.2025. The petitioner has also moved this petition to suspend the sentence imposed on him by the trial Court.

2. The learned counsel appearing for the petitioner submits that even according to the prosecution case, the petitioner had love affair with the victim girl and had physical relationship with her for several times. The petitioner and P.W.1 are relatives. Since the petitioner's mother opposed for marriage, the marriage was not solemnized. Therefore, a complaint was lodged as if the petitioner has forcibly raped the victim girl.

3. The learned counsel for the petitioner further submits that even according to the statement of the victim girl, she had physical relationship with the petitioner



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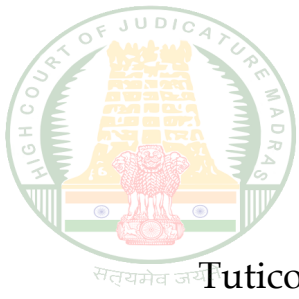
voluntarily. He has also relied on the evidence of P.W.1 and submits that it is a voluntary sex on account of love affair and it is not a forcible rape. Therefore, in this case, the offence under Section 417 IPC alone is made out. Further, it is not due to the disability of the victim the rape was committed and only with her consent, the sexual intercourse was made. Since the petitioner is in jail from the date of Judgment, i.e. from 30.12.2024, he seeks for suspending the sentence imposed by the trial Court.

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

5. 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 reason that the appeal could not be taken up immediately, this Court is inclined to allow this petition.

6. 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.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Vilathikulam,



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Tuticorin District;
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(ii) The petitioner shall stay at Trichy and appear before the Inspector of Police, Uppiliyapuram Police Station, Trichy, daily at 10.30 a.m. till the disposal of the appeal;

(iii) The petitioner shall file an undertaking affidavit before the respondent Police that he will not visit the village of the victim girl and not disturb the victim girl till the disposal of the appeal.

sd/-
27/03/2025

/ TRUE COPY /

27/03/2025
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 JUDICIAL MAGISTRATE
VILATHIKULAM, TUTICORIN DISTRICT.

2 DO-THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
TUTICORIN DISTRICT.

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



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3 THE JUDGE

MAHALIR NEETHIMANDRAM (FAST TRACK MAHILA COURT),
THOOTHUKUDI.

4 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI

5 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VILATHIKULAM,
THOOTHUKUDI DISTRICT.

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

+1 CC to M/s.C.MAYIL VAHANA RAJENDRAN, Advocate (SR-3578[I] dated
27/03/2025)

ORDER

IN

Crl.M.P.(MD)No.4100 of 2025
in Crl.A.(MD)No.132 of 2025

Date :27/03/2025

HPS/SAR / 27.03.2025/5P/8C

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