



Crl.MP(MD) No.4067 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED :26.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.MP(MD) No.4067 of 2025

in

Crl.A(MD) No.361 of 2024

Pasupathiraja

... Petitioner

Vs.

State of Tamil Nadu,
Rep by the Deputy Superintendent of Police,
Nilakottai Sub Division,
Dindigul District.
Ammaiyanaickanur Police Station
Crime No.753 of 2020

... Respondent

For Petitioner : Mr.K.Jeyamohan
For Respondent : Mr.P.Kottaichamy
Government Advocate (Crl.side)

ORDER

The petitioner, an accused in Spl.SC.No.38 of 2023, on the file of the Mahila Court (Fast Track Court), Dindigul was found guilty by the trial Court and was convicted as under:-



Crl.MP(MD) No.4067 of 2025

Sl.No	Sections	Punishment	Fine amount	Default
1.	363 IPC	3 years Rigorous imprisonment	Rs.5,000/-	6 months simple imprisonment
2.	Section 6 of POCSO Act	20 years Rigorous imprisonment	Rs.10,000/-	6 months simple imprisonment

As against the conviction and sentence imposed by the trial Court in Spl.SC.No.38 of 2023, dated 22.03.2024, the petitioner has filed a Criminal Appeal in Crl.A(MD) No.361 of 2024 and the same was admitted by this Court on 23.04.2024. The petitioner has also moved an application in Crl.MP(MD) No.4642 of 2024 to suspend the sentence imposed on him by the trial Court and the same was dismissed by this Court, by its order, dated 12.09.2024. Now, the petitioner has filed this Petition to suspend the sentence imposed on him.

2.The learned counsel appearing for the petitioner submits that even as per the statement recorded under Section 164 of Cr.P.C., the victim, who was aged about 17 years voluntarily went along with the petitioner and got married, without knowing that this petitioner is a married man. They had also physical relationship. The learned counsel further submits that the age of the victim was not proved by the prosecution, however, the prosecution has relied on the Certificate issued by the Headmaster and projected that the age of the victim was 17 ½ years at the time of occurrence. The learned counsel by relying upon the order passed by this Court in



Crl.MP(MD) No.4067 of 2025

Crl.MP(MD) No.6348 of 2024 in Crl.A(MD) No.542 of 2024, dated 24.02.2025

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following the judgment of the Division Bench of this Court in Subramaniam Vs. The State, reported in 2016(4) MLJ (Crl.) 385 submits that this Court has granted suspension of sentence to the petitioner therein, noting the fact that the certificate was issued by the Headmaster. The learned counsel has also relied on the judgment of the Division Bench of this Court in Crl.A(MD) No.518 of 2019, dated 18.10.2022 to substantiate his contentions. He further submits that the petitioner is in jail from 22.03.2024.

3.The learned Government Advocate appearing for the respondent submits that this petitioner is a married man having children and suppressing the same, he has cheated the victim girl, who was aged about 17 years. The petitioner's earlier application for suspension of sentence has been dismissed by this Court.

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

5.The age of the victim was established only through the certificate issued by the Headmaster. The prosecution has not collected the birth certificate or the Matriculation Certificate etc., In similar circumstances, taking adverse view on the certificate issued by the Headmaster for proving the age of the victim, this Court in Crl.MP(MD) No.6348 of 2024 in Crl.A(MD) No.542 of 2024, dated 24.02.2025



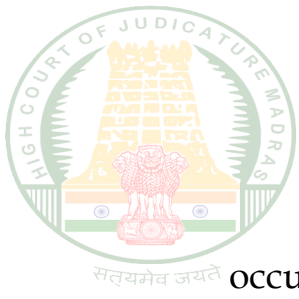
Crl.MP(MD) No.4067 of 2025

following the judgment of the Division Bench of this Court in Subramaniam Vs. The State, reported in 2016(4) MLJ (Crl.) 385, has granted relief to the accused by suspending the sentence.

6. 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 in the near future for final hearing for want of time. Considering the points raised by the petitioner, his period of incarceration, this Court is inclined to suspend the sentence imposed on the petitioner with certain conditions.

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 a sum of Rs.25,000/- (Rupees Twenty Five Thousand) with two sureties each for a like sum to the satisfaction of the Mahila Court, FTC, Dindigul.
- ii. The petitioner shall stay at Sankaran Kovil and report before the Inspector of Police, Sankaran Kovil Town Police Station daily at 10.30 a.m., until further orders.
- iii. The petitioner shall file an affidavit of undertaking before the respondent police as well as before the trial Court that he will not visit the place of



Crl.MP(MD) No.4067 of 2025

occurrence and also the victim till the disposal of the appeal.

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iv. On violation of any of the above conditions by the petitioner, the respondent police shall move an application for cancellation of the bail.

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

vrn

To

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

2.The Inspector of Police, Sankaran Kovil Town Police Station, Sankaran Kovil.

3.The Deputy Superintendent of Police,
Nilakottai Sub Division,
Ammaiyanaickanur Police Station
Dindigul District.

4.The Superintendent,
Central Prison,
Madurai.

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



Crl.MP(MD) No.4067 of 2025

+1 CC to M/s.K.JEYAMOHAN, Advocate (SR-3493[I] dated 26/03/2025)

ORDER

IN

Crl.MP(MD) No.4067 of 2025

in

Crl.A(MD) No.361 of 2024

Date :26/03/2025

MK/SAR /27.03.2025 6P/7C

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