

CRL MP(MD)Nos.7019 of 2023 and 9378 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 06.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRL MP(MD)Nos.7019 of 2023 and 9378 of 2024

in

CRL A(MD)Nos.363 of 2023 and 479 of 2024

Kavitha

... Petitioner in CrlMP(MD)No.7019 of 2023

Vinoth

... Petitioner in CrlMP(MD)No.9378 of 2024

Vs

The State through
The Inspector of Police,
All Women Police Station,
Dindigul District.
(Crime No.38 of 2016)

... Respondent

Prayer: Petitions filed under Section 389(1) of CrPC to suspend the sentence imposed against the petitioner and release him on bail pending disposal of the main criminal appeal before this Court against the judgment of the Sessions Judge, Fast Track Mahila Court, Dindigul in SplSC.No.25 of 2017, dated 29.09.2022.

For Petitioner : Dr.R.Alagumani,
in Crl MP(MD)No.7019 of 2023

: Mr.R.Prakash,
in Crl MP(MD)No.9378 of 2024

For Respondent : Mr.P.Kottaichamy,
Government Advocate (Crl Side)
in both petitions



CRL MP(MD)Nos.7019 of 2023 and 9378 of 2024

COMMON ORDER

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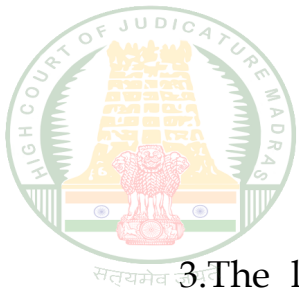
The petitioners are accused Nos.2 and 1 respectively in SplSC.No.25 of 2017 on the file of the Fast Track Mahila Court, Dindigul. They have been found guilty and convicted as follows:

	Section	Punishment	Fine (in Rs)	default class
A2	366(A) IPC	10 years rigorous imprisonment	10,000	6 months simple imprisonment
A1	366 IPC	10 years rigorous imprisonment	10,000	6 months simple imprisonment
	368 IPC	10 years rigorous imprisonment	10,000	6 months simple imprisonment
	6 of the POCSO ACT	20 years rigorous imprisonment	20,000	6 months simple imprisonment

As against the conviction, A1 has filed an appeal in Crl A(MD)No.479 of 2024 and A2 has filed an appeal in Crl A(MD)No.363 of 2024. They have also filed these petitions to suspend the sentence pending the appeals.

2.Since both these cases are arising out of the same judgment, these petitions are taken up together and disposed of by this common order. For sake of convenience the petitioners are referred to as per their ranks before the trial Court.

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3.The learned counsel for A1 submits that there are several contradictions between the evidence of PW1 and the statement recorded under Section 164 CrPC. According to him it was a love affair between A1 and the victim girl. However the case has been projected, as if at the instance of the A2, A1 had abused the victim girl. He further submits that A1 has been convicted under Section 6 of the POCSO Act. According to the prosecution case, the date of alleged occurrence is 27.11.2016. The amendment to Section 6 of the POCSO Act was not in force on the date of alleged occurrence. Therefore Section 6 of the POCSO Act cannot be invoked in this case. He further submits that there is no detention of the victim girl and she has voluntarily accompanied A1 and had physical relationship. The petitioner is in jail for the past 2 ½ years.

4.The learned Counsel for A2 submits that A2 is a stranger to A1 and she had no acquaintance with A1. The prosecution has not produced any materials to show the nexus of A2 with A1. He further submits that A2 is a woman and she is in jail for more than 2 ½ years.

5.The learned Government Advocate (Crl Side) appearing for the respondent submits that the mother of the victim child - PW2 lodged a written complaint – ExP1 that her daughter had studied upto 8th standard in CSI School and she discontinued the study and she was in her house. While so her daughter was found missing from



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12:pm on 27.11.2016. Her daughter often went to A2's house which was situated in the same street. After searching the victim child in many places, on suspicion, they enquired the A2 and she informed that A1 Vinoth had taken the victim girl. Immediately at about 1.00am on 29.11.2016 the defacto complainant, her husband, son and relatives went to A1's house and they found the victim girl there and she came along with them. At about 8.00am in the morning when the defacto complainant and her husband enquired the victim girl she informed that A1 Vinoth who is the relative of A2 often came to A2's house and she got acquaintance of A1. On 27.11.2016 afternoon both the accused came to her house and forcibly taken her in an auto. Thereafter A1 had intercourse forcibly with the victim against her wish that he would marry her. A1 detained her in his house and had sexual intercourse with her many times.

6.He further submits that the victim girl was 16 years old at the time of the occurrence. Her parents are coolie workers, and they were not available in the house. A2 is the neighbour of the victim girl and she has taken advantage of the loneliness of the victim and moved closely with the victim and made her to have physical relationship with A1. According to him, the prosecution has established their case by examining 15 witnesses and marking 16 exhibits.

7.This court considered the rival submissions made and perused the materials



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placed on record.

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8. Considering the statement recorded from the victim child under Section 164 CrPC and her evidence this court is not inclined entertain these petitions on the grounds raised by the petitioners. Accordingly, these petitions are dismissed.

sd/-

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

DSK

TO

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

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE OFFICER INCHARGE,
WOMEN PRISON, MADURAI.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
DINDIGUL DISTRICT.

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



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ORDER
IN
CRL MP(MD)Nos.7019 of 2023 and 9378 of 2024
in
CRL A(MD)Nos.363 of 2023 and 479 of 2024
Date :06/03/2025

SA/GSV/SAR. /01.04.2025/6P/6C

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