



CrI.M.P.(MD)No.5505 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.04.2025**

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

CrI.M.P.(MD)No.5505 of 2025

in CrI.A.(MD)No.175 of 2025

Kumar,
S/o.Chinnakaruppan,
Kallarpatti, M-Surakudi,
Singampunari Taluk,
Sivagangai District.

Petitioner(s)

versus

State of Tamil Nadu,
The Inspector of Police,
All Women Police Station,
Thiruppathur,
Sivagangai District.

Respondent(s)

For Petitioner(s):

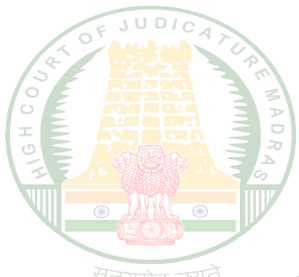
Dr.R.Alagumani
Advocate

For Respondent(s):

Mr.P.Kottaichamy,
Government Advocate (CrI. side)

ORDER

The petitioner is the sole accused in Spl.S.C.No.29 of 2019 on the file of the Principal Special Court (POCSO Act), Sivagangai. He was tried for the offence under Sections 342, 323 IPC and Section 10 r/w. 9(m) of POCSO Act 2012. In conclusion of



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trial, the trial Court, by its Judgment dated 14.10.2024, found the petitioner guilty for
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the offence under Sections 342 and 323 IPC and Section 9(m) r/w. Section 10 of POCSO Act and convicted and sentenced him as under:

(i) for the offence under Section 342 IPC, to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo one month simple imprisonment;

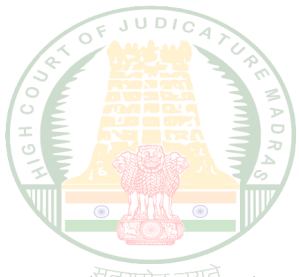
(ii) for the offence under Section 323 IPC, to undergo one year rigorous imprisonment and to pay a fine of Rs.500/- in default to undergo one month simple imprisonment;

(iii) for the offence under Section 9(m) r/w. Section 10 of POCSO Act, to undergo seven years rigorous imprisonment and to pay a fine of Rs.2,000/- in default to undergo six months simple imprisonment.

Challenging the Judgment of conviction, the petitioner has preferred an appeal in Crl.A.(MD)No.175 of 2025 and the same has been admitted by this Court on 13.02.2025. Now, the petitioner has moved this petition seeking to suspend the sentence imposed by the trial Court.

2. The learned counsel appearing for the petitioner submits that the petitioner

is in jail for the past 441 days. The learned counsel, by referring the contradictions

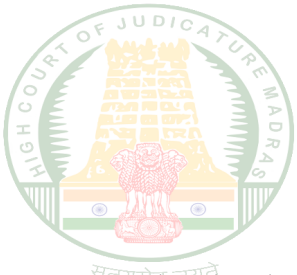


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between the evidence of P.W.4 and P.W.7, submits that P.W.4, in his evidence, stated that on hearing the alarm raised by the victim child, he went to the accused's house and rescued the victim child, whereas, P.W.7, in his evidence, stated that based on the alarm raised by the victim child, he rushed to the accused's house, broke open the door and rescued the victim child. According to the learned counsel for the petitioner, there is a difference between P.W.4 and P.W.7 in rescuing the victim child. He further submits that there is no eye witness to the occurrence and except the victim child, there are no other witnesses. The injury suffered by the victim child as projected by the prosecution is a self-inflicted one. He further submits that the accused has suffered injury which has also been recorded by P.W.15. However, the injury sustained by the accused has not been explained by the prosecution.

3. The learned Government Advocate (Crl. Side), by referring the evidence of P.W.1 submits that P.W.1, the victim child, is a school going child aged about 10 years. She used to go to the school in a bicycle and used to park the bicycle in front of one Sandhiya's house, who is the friend of the victim child. On the fateful day, the accused entrusted some work to her friend Sandhiya and also asked the victim child to go and verify as to whether his son is sleeping in the house. When the victim went to the accused' house in order to ascertain whether the accused's son is sleeping



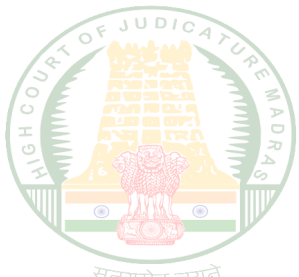
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inside the house, the accused went behind the victim, locked the door, pushed her down, strangulated her neck and also attempted to commit rape. The victim child raised an alarm and also fought with the accused. In the course of occurrence, the victim sustained injuries that was also noted down by P.W.14. Apart from the evidence of P.W.1., the learned Government Advocate has also relied on the evidence of P.W.4 and P.W.7, the neighbours of the accused, who rescued the victim from the accused due to the alarm raised by the victim. Therefore, according to the learned Government Advocate, it is a clear case, wherein, an attempt has been made by the accused to commit rape on the victim child, who is the friend of his brother's daughter.

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

5. The victim is a school going child aged about 10 years and she used to go to the school in a bicycle and she used to park the bicycle in front of Sandhiya's house, who is the friend of the victim child. The petitioner is the brother of Sandhiya's father and he is residing near Sandhiya's house. When the victim child parked her vehicle, the accused diverted P.W.9/Sandhiya, by asking her to ascertain whereabouts of his wife and also directed the victim child to ascertain as to whether his son is sleeping inside the house. When the victim child went to the house of the accused, the



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accused went behind the victim child, locked the door and also pushed her down and attempted to commit rape. The victim fought with the accused, during that time, she sustained injuries. The victim child was rescued by the neighbours on alarm raised by the victim child. The evidence of P.W.4 and P.W.7, who are the neighbours, has supported the evidence of P.W.1. P.W.9, who is the friend of P.W.1 and daughter of the accused's brother has also supported the evidence of P.W.1. Apart from that, the evidence of Doctor also reveals that the victim sustained injuries in the course of occurrence.

6. Considering the nature of offence and also considering the available evidence as against the petitioner, this Court is not inclined to entertain this petition. Accordingly, this Criminal Miscellaneous Petition is dismissed.

7. Since this Court refuses to grant suspension of sentence to the petitioner, the Registry is directed to prepare typed set of papers and post the main appeal in the first week of July for final disposal.

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 PRINCIPAL SPECIAL JUDGE
(POCSO ACT), SIVAGANGAI.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUPPATHUR,
SIVAGANGAI DISTRICT.

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

COPY TO:

THE SECTION OFFICER,
T & P SECTION,

MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP(MD) No.5505 of 2025
in Crl.A.(MD)No.175 of 2025

Date :24/04/2025

SS/SAR- /05/05/2025/ 6P/5C

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