



Crl.M.P.(MD)No.6184 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.04.2025

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THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.6184 of 2025

in Crl.A.(MD)No.543 of 2025

Krishnamoorthi,
S/o.Velmurugan,
Ambetkar Colony Street,
Samsigapuram,
Rajapalayam Taluk,
Virudhunagar District.

Petitioner(s)

versus

State of Tamilnadu rep. by
The Inspector of Police,
Rajapalayam AWPS,
Virudhunagar District.

Respondent(s)

For Petitioner(s):

Mr.G.Karuppasamy Pandian
Advocate

For Respondent(s):

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

ORDER

The petitioner is the sole accused in Spl.S.C.No.140 of 2023 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputhur. He was tried for the offence under Section 7 r/w. 8 of POCSO Act



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2012. In conclusion of trial, the trial Court, by its Judgment dated 06.11.2024, found the petitioner guilty for the offence under Section 7 r/w. 8 of POCSO Act and convicted and sentenced him to undergo three years simple imprisonment and to pay a fine of Rs.1000/-, in default, to undergo one month simple imprisonment. Challenging the Judgment of conviction and sentence, the petitioner has filed an appeal in Crl.A.(MD)No.543 of 2025 and the same is admitted by this Court today. Along with the appeal, the petitioner has moved this petition to suspend the sentence.

2. The learned counsel appearing for the petitioner submits that the petitioner and the victim are neighbours. The allegation is that the petitioner has taken the victim child to a Cinema Theatre and thereafter, attempted to take her to Kerala. In the Cinema Theatre, the petitioner said to have molested and kissed the victim child. When they were proceeding towards Kerala, the mother of the victim child called and therefore, the accused and the victim child returned and thereafter, the petitioner absconded. On the next day, the complaint was lodged. The learned counsel further submits that P.W.2 in her statement has stated that she only lodged the complaint. However, the prosecution has projected the complaint of P.W.1 and suppressed the complaint of P.W.2. The learned counsel further submits that the prosecution has projected as if the petitioner has repeatedly called the victim girl. But, the prosecution



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has not recovered the mobile phone and also recovered the call details. Since the petitioner is in jail from the date of conviction, i.e. on 06.11.2024, he seeks to suspend the sentence imposed by the trial Court.

3. The learned Government Advocate (Crl. Side) submits that the victim child is aged about 15 years and the petitioner is 33 year old. The petitioner is also a married man and he induced the victim child and took her to a Cinema Theatre, where, he abused her. On the complaint of the victim child's mother, this case been registered. Considering the age of the victim child, suspension of sentence cannot be granted.

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

5. Though there is an allegation that the petitioner has abused the victim child in a Cinema Theatre, the victim child went along with the petitioner to Kerala even after this incident. According to the learned counsel for the petitioner, the victim child voluntarily went to Cinema Theatre along with the petitioner. Further, the petitioner is in jail from date of conviction, i.e. from 06.11.2024. The petitioner has also raised a ground that the complaint of P.W.2/victim has been suppressed by the prosecution. The ground raised by the petitioner can be considered only at the time of final hearing and the appeal could not be taken up for final hearing for want of time.



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6. Considering the points raised by the petitioner, period of incarceration and for the reasons that the appeal could not be taken up immediately, this Court is inclined to allow this petition.

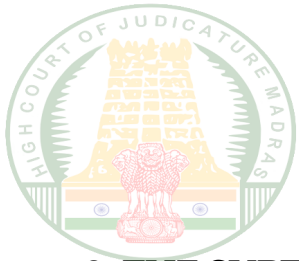
7. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioner is ordered to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only), with two sureties each for a like sum to the satisfaction of the Special Court for Exclusive Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputhur and on further condition that the petitioner shall stay at Tiruppur and report before the Inspector of Police, Tiruppur North Police Station, Tiruppur, daily at 10.30 a.m. until further orders and the petitioner shall also file an undertaking affidavit before the respondent Police that he will not visit the village of the victim child and will not disturb the victim child at any point of time.

sd/-
30/04/2025

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30/04/2025
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO
1 THE JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.



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2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE,
RAJAPALAYAM AWPS,
VIRUDHUNAGAR 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.G.KARUPPASAMY PANDIYAN, Advocate (SR-5147[I] dated
30/04/2025)

ORDER IN
Crl.M.P.(MD)No.6184 of 2025
in Crl.A.(MD)No.543 of 2025
Date :30/04/2025

SA/SAR. /30.04.2025/5P/7C

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