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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

CrI.M.P.(MD)No.6278 of 2024

in CrI.A.(MD)No.537 of 2024

Karthick,
S/o.Kedikoothan,
Anjukulipatti,
Sanarpatti,
Dindigul District.

Petitioner(s)

Vs

The State represented by its
The Inspector of Police,
Sanarpatti Police Station,
Dindigul District.

Respondent(s)

For Petitioner(s):

Mr.M.Jegadeesh Pandian

Advocate

For Respondent(s):

Mr.P.Kottaichamy,

Government Advocate (CrI. Side)

ORDER

The petitioner is the sole accused in Special S.C.No.39 of 2023 on the file of the



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Special Court for POCSO Act Cases, Dindigul. After the trial, the trial Court, by its Judgment dated 28.05.2024, found the petitioner guilty for the offence under Section 363 IPC and Section 6 of POCSO Act and convicted and sentenced him as follows:

(i) for the offence under Section 363 IPC, to undergo 4 years rigorous imprisonment and to pay a fine of Rs.5,000/-, with the default sentence of six months simple imprisonment.

(ii) for the offence under Section 6 of POCSO Act, to undergo 20 years rigorous imprisonment and to pay a fine of Rs.10,000/-, with the default sentence of six months simple imprisonment.

Challenging the Judgment of conviction and sentence, the petitioner has preferred an appeal in CrI.A.(MD)No.537 of 2024 along with the petition for suspension of sentence. The Criminal Appeal was admitted by this Court on 24.06.2024.

2. The learned counsel appearing for the petitioner submits that the prosecution has failed to produce the birth certificate of the victim child. In order to prove the age of the victim child, the prosecution has produced Ex.P5 - a document issued and attested by P.W.10-School Headmaster, which cannot be given any credence as an equivalent to the birth certificate. He further submits that the petitioner was not subjected to DNA test. Further, as per Ex.P13-DNA report, it was not matched with



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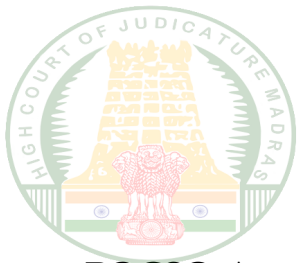
the petitioner. Therefore, the petitioner is not responsible for the pregnancy of the victim girl. However, the trial Court has committed grave error in accepting the DNA report, based on which, convicted the petitioner.

3. The learned counsel appearing for the petitioner has also pointed out that before the Doctor, the victim child has stated that she was provided with a biscuit and after consuming the same, she got fainted, whereas, in the statement recorded under Section 164 Cr.P.C. she has stated that the petitioner offered her a chocolate and after consuming the same, she got fainted. Since the petitioner is having certain arguable points to succeed in this appeal and he is in jail from the date of Judgment, he seeks for suspension of sentence.

4. Heard the learned Government Advocate (Crl. Side).

5. Considering the period of incarceration and also considering the fact that the petitioner is having certain arguable points in this appeal and as there is no likelihood of listing the criminal appeal for final hearing in the near future, this Court is inclined to suspend the sentence imposed on the petitioner.

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 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



POCSO Act Cases, Dindigul and on further condition that the petitioner shall stay at
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Tiruppur and appear before the Inspector of Police, Tiruppur Town Police Station,
Tiruppur, daily at 10.30 a.m. till the disposal of the appeal.

sd/-
03/03/2025

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04/03/2025
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1 THE JUDGE, THE SPECIAL COURT FOR POCSO ACT CASES,
DINDIGUL.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE,
SANARPATTI POLICE STATION, DINDIGUL DISTRICT.

4 THE INSPECTOR OF POLICE
TIRUPPUR TOWN POLICE STATION,
TIRUPPUR.

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

+1 CC to M/s.M.JEGADEESH PANDIAN, Advocate (SR-2396[I] dated 04/03/2025)



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ORDER
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CRL MP(MD) No.6278 of 2024
IN
CRL.A (MD) No.537 of 2024
Date :03/03/2025

NBF/SAR/ (04/03/2025) 5P/7C

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