



**Crl.M.P.(MD)No.7612 of 2024**

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 07.03.2025**

**CORAM**

**THE HONOURABLE MR JUSTICE B.PUGALENDHI**

**Crl.M.P.(MD)No.7612 of 2024**

**in Crl.A.(MD)No.636 of 2024**

Nadimuthu,  
S/o.Vellaisamy,  
Mela Street,  
Anaikkadu,  
Pattukottai.

Petitioner(s)

versus

State Rep. by  
The Inspector of police,  
All Women Police Station,  
Pattukottai.

Respondent(s)

**For Petitioner(s):**

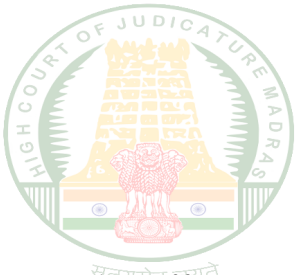
M/s.V.Muthu Kamatchi  
Advocate

**For Respondent(s):**

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

### **ORDER**

The petitioner is an accused in Spl.S.C.No.27 of 2021 on the file of Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur. After the trial, the trial Court, by its Judgment dated 30.09.2022, found the petitioner guilty for



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the offence under Sections 5(l) and 5(j)(ii) r/w. 6 of POCSO Act and Section 506(i) IPC

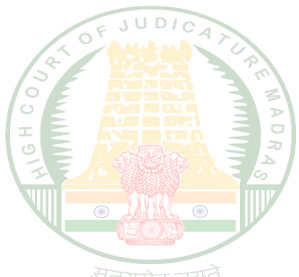
and convicted and sentenced him as follows:

(i) for the offence under Sections 5(l), 5(j)(ii) r/w. 6 of POCSO Act, to undergo 25 years rigorous imprisonment and to pay a fine of Rs.2,00,000/-, with the default sentence of one year rigorous imprisonment.

(ii) for the offence under Section 506(i) IPC, to undergo 2 years rigorous imprisonment and to pay a fine of Rs.10,000/-, with the default sentence of two months rigorous imprisonment.

Challenging the Judgment of conviction and sentence, the petitioner has preferred an appeal in Crl.A.(MD)No.636 of 2024 along with the petition for suspending the sentence. The Criminal Appeal was admitted by this Court on 31.07.2024.

2. The learned counsel appearing for the petitioner submits that the petitioner herein is the second accused and he has not committed any offence as alleged by the prosecution. The victim girl in her evidence has categorically admitted that she had love affair with the first accused. The first accused, by giving false promise that he would marry her, had sexual intercourse with her for several times. Further, the victim girl has never stated that she was sexually assaulted by the petitioner. The



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learned counsel further submits that there was no injury found on the body of the victim girl. Therefore, there is no possibility of sexual assault by the petitioner/A2. The learned counsel further submits that P.W.3 and P.W.4, who are the eye-witnesses, have not stated anything regarding sexual assault made by the petitioner. Therefore, the petitioner is having arguable points in this appeal. Since the petitioner is in jail from date of Judgment dated 30.09.2022, he seeks for suspending the sentence imposed on the petitioner. The learned counsel further submits that the sentence imposed against A1 was already suspended. Therefore, he prays this Court to allow this petition.

3. The learned Government Advocate (Crl. Side) submits that the petitioner's case is different from the case of the first accused. He further submits that the first accused had love affair with the victim girl. But, the petitioner/A2, by threatening the victim girl that he would disclose the affair with A1, had physical relationship with her and made her pregnant. He further submits that DNA samples have been recovered and that matched with the petitioner/A2. Therefore, he strongly opposed to suspend the sentence imposed on the petitioner by the trial Court.

6. Considering the nature of offence and also considering the available materials as against the petitioner, this Court is not inclined to entertain this petition.



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7. Accordingly, this Criminal Miscellaneous Petition is dismissed.

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/04/2025  
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  
FOR EXCLUSIVE TRAIL CASE UNDER POCSO ACT,  
THANJAVUR.

2 THE INSPECTOR OF POLICE  
ALL WOMEN POLICE STATION,  
PATTUKOTTAI.

3 THE SUPERINTENDENT  
CENTRAL PRISON, TRICHY.

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

+1 CC to M/s.V.MUTHUKAMATCHI, Advocate ( SR-2532[I] dated 07/03/2025 )



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ORDER  
IN  
CRL MP(MD) No.7612 of 2024  
in Crl.A.(MD)No.636 of 2024  
Date :07/03/2025

SS/GSV/SAR- /02/04/2025/ 5P/6C

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