



CRL MP(MD) No. 7573 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12-03-2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

CRL MP(MD) No. 7573 of 2024

and

CRL A(MD) No.634 of 2024

Arvindh
S/o Dharmaraj, 18 Savadi street, Managiri, Sivagangai.

Petitioner(s)

Vs

The Inspector of Police
CBCID Police station,
Sivagangai District.
(Crime No. 02/2015)

Respondent(s)

For Petitioner(s):

M/s.K. PRABHU
S.Ragaventhre
K. Jeyamohan

For Respondent(s): Mr.A.S.Abul Kalam Azad
Government Advocate

ORDER

The petitioner is accused no.1 in Spl.S.C.No.19 of 2016, on the file of the Principal Special Court for POSCO Act, Sivagangai. He was found guilty by the trial Court and was convicted and sentenced as under:-

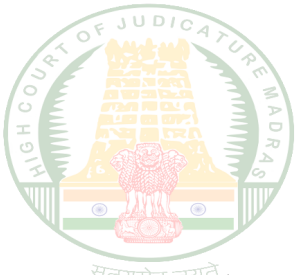


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	Offence	Punishment
1.	328 of IPC	Sentence to undergo 5 years imprisonment and to pay a fine of Rs.2,000/-. In default to undergo 2 months imprisonment.
2.	506(ii) of IPC	Sentence to undergo 3 years imprisonment and to pay a fine of Rs.1,000/-. In default to undergo 1 month imprisonment
3.	11(iii) r/w 12 of POCSO Act	Sentence to undergo 3 years imprisonment and to pay a fine of Rs.1,000/-. In default to undergo 1 month imprisonment
4.	9(1) r/w 10 of POCSO Act	Sentence to undergo 5 years imprisonment and to pay a fine of Rs.2,000/-. In default to undergo 2 months imprisonment
5.	5(1) and 5(j)(ii) r/w 6 of POCSO Act	Sentence to undergo 10 years imprisonment and to pay a fine of Rs.2,000/-. In default to undergo 2 months imprisonment

2. A brief facts of the case is that the father of the victim child killed the mother of the victim child and therefore, the victim child was dependent on her grandmother. At that time, the petitioner, who is the relative to the victim child is said to have developed some intimacy and had sexually abused the victim child. Thereafter, the victim child was shifted to some other relatives house and the others have also said to have abused the victim child. The 164 statement was recorded from the victim child on the request of the Inspector of Police, CBCID Police Station, Sivagangai on 31.12.2015. Based on the 164 statement, a case was registered, prosecuted before the



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Principal Special Court for POSCO Act, Sivagangai as against 8 persons. During the
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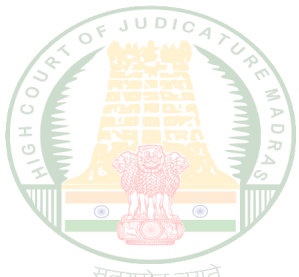
course of evidence, victim child PW1 has not supported her statement. The trial Court acquitted accused nos.3,5,7 & 8 and convicted the accused no.1/petitioner herein and accused no.6. The accused no.2 and 4 died during the trial.

3. As against the conviction and the sentence imposed by the trial Court, the petitioner has filed Crl.A.(MD)No.634 of 2024. The same was admitted by this Court on the grounds raised in support of the appeal. Pending the appeal, the petitioner has moved this application to suspend the sentence imposed against him.

4. The learned Senior Counsel appearing for the petitioner submits that the victim child has not supported the case of the prosecution during the trial. Therefore, the trial Court has acquitted the accused no.3,5,7 and 8. However, the trial Court has convicted this petitioner based on the 164 statement recorded on 21.12.2015.

5. He further submits that in the 164 statement, the victim girl has narrated the manner in which the accused no.3/Sub Inspector of Police has abused the child. However, the trial Court has acquitted accused no.5, who had more overt act than that of the petitioner. The CBCID Investigation Agency has also filed an appeal as against the order of the trial Court as against the acquittal of the other accused.

6. This court considered the rival submissions and perused the materials available on record.



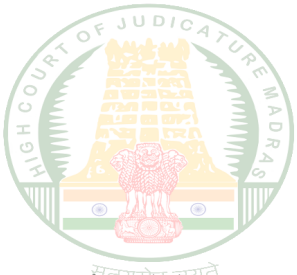
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7. This victim is the victim of circumstances. The victim child's father was a drunkard and he has also killed her wife viz., the victim child's mother by pouring kerosene. The victim was forced to depend on her grand mother. Her grand father died and therefore, she was forced to take asylum with some other relatives. Taking advantage that there was no one for her, she was exploited by several persons. From the reading of 164 statement, the main accused is accused no.5 / The Sub Inspector of Police. However, he was acquitted by extending the benefit of doubt. Even as per the 164 statement recorded from the victim child, this petitioner who is a relative had some friendship and taken her to his house and has provided some cool drinks and abused her.

8. The prosecution has relied on certain photographs, however those photographs have not been marked. This Court has also verified with the Investigation Officer and perused the CD file. The photographs produced by the investigation agency is not offending as against the petitioner/accused no.1. The petitioner/accused no.1 is in jail from the date of conviction i.e., on 24.05.2024. The conviction is based on the 164 statement alone. The 164 statement has also been partially considered as against this petitioner and partially as against the other accused.

9. The petitioner has raised certain arguable points which can be considered only during the final hearing of the appeal. However the appeal could not be taken up for



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

10. 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 learned Principal Special Court for POSCO Act, Sivagangai and on further condition that the petitioner shall stay at Coimbatore and report before C1 Katoor Police Station, Coimbatore, daily at 10.30 a.m., until further orders. The trial Court shall accept the surety only on payment of fine amount imposed as against this petitioner.

sd/-
12/03/2025

/ TRUE COPY /

09/04/2025

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

RGM

TO

1 THE PRINCIPAL SPECIAL JUDGE
FOR POCSO ACT, SIVAGANGAI.



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2 THE INSPECTOR OF POLICE
CBCID POLICE STATION, SIVAGANGAI DISTRICT.

3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.

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

COPY TO:
THE INSPECTOR OF POLICE
C1 KATOOR POLICE STATION, COIMBATORE.

+1 CC to M/s.K.PRABHU, Advocate (SR-2709[I] dated 12/03/2025)

ORDER
IN
CRL MP(MD) No.7573 of 2024
and
CRL A(MD) No.634 of 2024
Date :12/03/2025

SS/SAR- /09/04/2025/ 6P/7C

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