



Crl.M.P.(MD).No.8771 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.02.2025

CORAM:

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.M.P.(MD).No.8771 of 2024

in

Crl.A.(MD).No.594 of 2024

Anandaraj

... Petitioner

Vs.

The Inspector of Police,
All Women Police Station,
Thoothukudi District.
(Crime No.28 of 2022)

... Respondent

For Petitioner : Mr.K.Jeyamohan

For Respondent : Mr.G.Senthil Kumar
Additional Public Prosecutor

ORDER

The petitioner was found guilty by the learned Special Court for Exclusive Trial of Cases under POSCO Act, Thoothukudi in Spl.S.C.No.150 of 2022 dated 07.06.2024 for the offences under Section 10 of the POCSO Act and convicted and sentenced him to serve 7 years rigorous imprisonment with a fine of Rs.5,000/-. One month default

<https://www.mhc.tn.gov.in/judis>



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sentence was also imposed as against the conviction and sentence imposed as against the petitioner. The petitioner has already filed an appeal before this Court in Crl.A.No.594 of 2024 and the same was admitted by this Court and is pending. Pending the appeal, the petitioner has filed this application to suspend the sentence imposed as against him.

2. The petitioner is a Headmaster of an aided school. The victim girl viz., P.W.2 in this case is a student aged about 10 years was studying 5th standard in the primary school, where the petitioner was working as a Headmaster. The victim girl was a dull student. She was not conversant with Tamil language. For those students who were not conversant with Tamil language, this petitioner used to take special classes. He has also taken special classes for the victim girl and at the time of taking special classes, this petitioner alleged to have misbehaved with the victim girl. The victim girl has reported stomach pain to her teacher viz., P.W.7. She in turn informed P.W.1, the mother of the victim that her daughter is reporting stomach pain. P.W.1 has also suggested to provide some cool drinks for her daughter / victim girl. Thereafter, victim girl was sent to her home. The victim girl has reported about this stomach pain suffered by her to her sister viz., P.W.3. She has also informed her sister P.W.3 that this stomach pain is due to the harassment made by the petitioner. P.W.1 to P.W.4 went to the school and raised a problem, assaulted the petitioner and also lodged a



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complaint.

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3. The police registered a case and filed a final report as against this petitioner.

During the trial, 12 witnesses were examined and 7 documents were marked. In conclusion of the trial, the trial court has found him guilty and convicted as stated supra.

4. The learned counsel appearing for the petitioner submits that the witnesses P.W.1 is the mother, P.W.2 is the victim girl, P.W.3 is the sister, P.W.4 is the sister of P.W.1 and P.W.6 is the father. According to him, all the prosecution witnesses are from the same family.

5. He further submits that even according to the victim girl, she was assaulted by a boy on her stomach and an identification parade was also conducted to identify the person who assaulted her. The victim girl in her cross-examination has admitted the same, which has to be corroborated by the evidence of P.W.7. However, this petitioner has been fixed as an accused as if he misbehaved with the victim girl and on account that she suffered the stomach pain. The independent witness viz., P.W.5, the victim girl's classmate turned hostile and P.W.7 another teacher has also not supported the case of the prosecution. He also pointed out that the accused is said to have misbehaved with the victim girl in front of other students. None of the students were examined. Admittedly, in the class room there were several other students and



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this version of the victim girl is not trust worthy.

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6. That apart, learned counsel appearing for the petitioner submits that one Eeswari (teacher) viz., D.W.1, was also present in the special classes conducted by this petitioner. This D.W.1 though cited as a witness by the prosecution, was not examined by the prosecution and she was examined by the petitioner as a defense witnesses. She has clearly stated that no such occurrence had taken place. She has also stated that somebody has assaulted the victim girl and therefore, she suffered stomach pain and an attempt was also made to identify the boy who assaulted the victim girl.

7. The learned Additional Public Prosecutor appearing for the respondent submits that the prosecution case has established its case through P.W.1, P.W.2, P.W.3, P.W.4 and P.W.6.

8. This Court considered the rival submissions made on either side and perused the materials placed on record.

9. The victim girl was aged about 10 years and at the time of occurrence, she was studying 5th standard. Admittedly, she was a dull student and had some problem with Tamil language. For those dull students who were not conversant with Tamil language, the petitioner said to have taken some special classes. The victim girl claims that in the guise of taking special classes, the petitioner has misbehaved with



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her and she was also offered with a sum of Rs.2,000/- by the petitioner. The victim girl has not reported the incident immediate to the occurrence. According to her, she was subjected to harassment on several occasions other than the day on which the complaint has been lodged. She at the young age afraid of lodging the complaint, has restrained her from lodging the complaint. Even on that day, she was subjected for harassment and out of which, she suffered from stomach pain. However, she did not report the same to her sister as well as to her mother or P.W.7 that this stomach pain is only due to the petitioner.

10. The fact remains that the victim girl suffered stomach pain on the date of complaint. One of the teacher viz., P.W.7 on seeing the condition of the victim girl has called her mother and informed her that the pain suffered by her daughter. Thereafter, she was sent home. Wherein, the victim girl has stated about the incident to her sister viz., P.W.3. P.W.3 in turn informed her parents. Thereafter, P.W.1, P.W.2, P.W.3, P.W.4 and P.W.6 went to the school and assaulted the petitioner with foot wear. Though he was assaulted, the petitioner has not lodged any complaint as against P.W.1 and others, who assaulted him inside the school.

11. The petitioner is taking advantage of the evidence of P.W.2 that she was assaulted by a student in the school and there was an identification parade to identify the student. When a specific question was made to the victim girl that she was



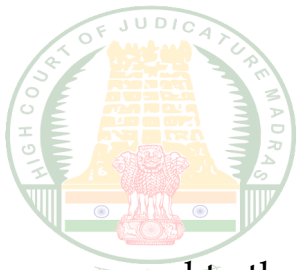
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assaulted by another boy and therefore, suffered stomach pain. The victim girl specifically denied the same. Even according to the victim girl, she has stated about the stomach pain that was also due to some other reason. She was afraid of informing the occurrence to others at that relevant point of time. It is not the first occurrence on that day the petitioner has misbehaved. According to the victim girl, she was subjected to harassment by the petitioner on several occasions. On that day, she could not bear the pain and therefore, it was reported to the teacher viz., P.W.7 and then to the mother viz., P.W.1 as well and she was also sent back to the house. Only in the house, P.W.3 was managed to get the details about the occurrence and thereafter, she has reported to the parents, then the parents went to the school, assaulted the petitioner and has also lodged a complaint.

12. The evidence of P.W.1, P.W.2, P.W.3, P.W.4, P.W.6 and P.W.7 make out a case that the victim girl has suffered stomach pain on the date of complaint. The defense is objecting that the stomach pain was due to assault by another person. Even according to the prosecution as well as the witnesses, it was eleven students studying in the special classes and the petitioner has not taken any steps to identify the other students.

13. This Court is not inclined to consider the case of this petitioner. All these statements made by the victim girl that there was some identification parade with



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regard to the person who assaulted her. Even according to the victim girl, she has not disclosed about the incident initially and it was later revealed only through P.W.3.

14. Therefore, this Court is not inclined to entertain this petition. Accordingly this petition is dismissed.

sd/-
21/02/2025

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/04/2025
Sub-Assistant Registrar (C.S.-I/ II /III/ IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

rgm
TO

1 THE JUDGE, SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER
POCSO ACT, THOOTHUKUDI.

2 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.

3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, THOOTHUKUDI DISTRICT.

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

+1 CC to M/s.K.PRABHU, Advocate (SR-2005[I] dated 24/02/2025)

ORDER
IN
CRL MP(MD) No.8771 of 2024
in
Crl.A.(MD).No.594 of 2024
Date :21/02/2025



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NBF/VR/ SAR/ (02/04/2025) 8P/6C

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