

CRL MP(MD) NO. 10644 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21-03-2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

CRL MP(MD) NO. 10644 of 2024

in

CRL A(MD)NO.816 of 2024

Muthukumar

S/o Kumaresan, Maikudi, Thirumangalam taluk, Madurai district. (Now confined in Central Prison, Madurai)

Petitioner(s)

Vs

1. The State of Tamil Nadu,
Rep by The Deputy Superintendent of police,
O/o The Deputy Superintendent of Police office,
Thirumangalam taluk Police station,
Madurai district.

2. The Inspector of Police,
Thirumangalam taluk Police station,
Madurai district.
Crime No. 41/2019

3. XXXX
Xxxx,
Xxxx.

Respondent(s)

For Petitioner(s):

D.Balamurugapandi

For Respondent(s):

Mr.P.Kottaichamy

Government Advocate (Crl.Side)



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ORDER

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The petitioner is the sole accused in Spl.S.C.No.97 of 2019, on the file of the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai for the offences under Section 5(m) r/w 6 of Protection of Children from Sexual Offence Act 2012 and under Section 3(1)(w)(i) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act 2015. The Trial Court found the petitioner guilty, convicted and sentenced him as under:-

Offence under Section	Sentence
Section 5(m) r/w 6 of POCSO Act, 2012	Convicted and sentenced to undergo 10 years rigorous imprisonment with fine of Rs.10,000/-, and in default to undergo 1 year simple imprisonment.

2. As against the conviction and sentence imposed by the trial Court, the petitioner has filed a Criminal Appeal in CrI.A(MD) No.816 of 2024 and the same has been admitted by this Court. The petitioner has also moved this application to suspend the sentence imposed on him by the trial Court.



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3. The learned counsel for the petitioner submits that the prosecution has not proved its case beyond reasonable doubt. According to him, the victim child as well as the other prosecution witnesses have not supported the case of the prosecution during the trial. However, trial Court mechanically convicted the petitioner based on the statement which was recorded under Section 164 of Cr.P.C. on 14.03.2019.

4. The learned counsel for the petitioner has also submits that the doctor has not noticed any injury and the hymen was also intact. He also submits that this petitioner is in jail for the past two years from the date of conviction. According to him, he has been mentally affected and he has been subjected for treatment for his mental health from Central Prison Madurai from 26.07.2024 to 25.08.2024. He also submits that this petitioner will not visit the scene village and he will not disturb the victim child. To that effect, he is prepared to file an affidavit.

5. The learned Government Advocate (Crl.Side) submits that the petitioner is aged about 24 years and the victim is aged about 12 years. This petitioner has taken the victim child to a remote place and attempted to abuse the child. He fairly submits that there is no injury on the victim child and the hymen was also intact.



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

7. It appears that the prosecution witnesses including the victim child have not supported the prosecution case during the trial. As rightly pointed out by the learned counsel for the petitioner, the evidence of the Doctor also reveals that the victim was not subjected for any sexual harassment. 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 final hearing for want of time.

8. Considering the undertaking of the petitioner that he will keep away from the scene village and he will not disturb the victim child any more and considering 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.

9. 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 Sessions Judge,



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Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai and
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on further condition that the petitioner shall stay at Thoothukudi and report before
the Inspector of Police, Thoothukudi (*) Central Police Station, Thoothukudi, 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/-
21/03/2025

(*Corrected as per the order of this
Hon'ble Court dated 21.04.2025 in CrI
MP(MD) No.10644 of 2024 in CrI.A(MD)
No.816 of 2024)

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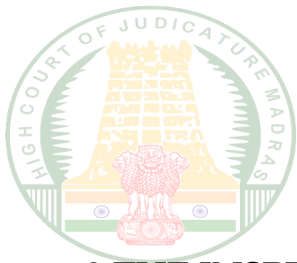
/04/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RGM
TO

TO BE SUBSTITUTED WITH THE ORDER DATED 21/03/2025 ALREADY
DESPATCHED.

1 THE SESSIONS JUDGE, PRINCIPAL SPECIAL COURT
FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
MADURAI, MADURAI DISTRICT.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
O/O THE DEPUTY SUPERINTENDENT OF POLICE OFFICE,
THIRUMANGALAM TALUK POLICE STATION,
MADURAI DISTRICT.



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3 THE INSPECTOR OF POLICE,
THIRUMANGALAM TALUK POLICE STATION,
MADURAI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI,
MADURAI DISTRICT.

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

COPY TO:
THE INSPECTOR OF POLICE,
THOOTHUKUDI TOWN POLICE STATION,
THOOTHUKUDI.

THE INSPECTOR OF POLICE,
THOOTHUKUDI CENTRAL POLICE STATION,
THOOTHUKUDI.

+1 CC to M/s.D.BALAMURUGAPANDI, Advocate (SR-4420[I] dated 21/04/2025)

ORDER
IN
CRL MP(MD) NO. 10644 of 2024
in
CRL A(MD)NO.816 of 2024
Date :21/03/2025

NBF/SAR/23/04/2025/6P/9C
SA/SAR. /02.04.2025/6P/8C

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