



Crl.M.P.(MD)No.11608 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2025

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THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)Nos.11608 and 11781 of 2024

in Crl.A.(MD)Nos.894 and 925 of 2024

Crl.M.P.(MD)No.11608 of 2024

Muniyandi,
S/o.Meyyan,
Door No.2/188, Uthu Colony,
Nagamalai Pudhukottai,
Madurai District.

Petitioner(s)

versus

The Inspector of Police,
Nagamalai Pudhukottai Police Station,
Madurai District.

Respondent(s)

For Petitioner(s):

Mr.J.Yogeswaran
Advocate

For Respondent(s):

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

Crl.M.P.(MD)No.11781 of 2024

Vigneswaran,
S/o.Murugan,
No.3/163, Chinnakannu Nagar,
Nagamalai Pudhukottai,
Madurai

Petitioner(s)

versus

The State rep. by
The Inspector of Police,
Nagamalai Pudhukottai Police Station,
Madurai District.

Respondent(s)



Crl.M.P.(MD)No.11608 of 2024

For Petitioner(s):

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Mr.R.Ganesan
Advocate

For Respondent(s):

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

COMMON ORDER

The petitioners are the 3rd and 4th accused in S.C.No.180 of 2014 on the file of the learned Sessions Judge, Mahalir Neethimandram, Madurai. They were prosecuted along with four other accused for the offence under Sections 376 and 506(ii) IPC. In conclusion of trial, the trial Court, by its Judgment dated 03.08.2022, found the petitioners guilty and convicted and sentenced them as under:

(i) for the offence under Section 376 IPC, to undergo rigorous imprisonment for a period of 10 years each and to pay a fine of Rs.3,000/- each, in default, to undergo simple imprisonment for a period of one year each.

(ii) for the offence under Section 506(ii) IPC, to undergo rigorous imprisonment for a period of three years each and to pay a fine of Rs.1,000/- each, in default to undergo simple imprisonment for a period of six months each.

Challenging the Judgment of conviction and sentence, the 3rd accused has preferred an appeal in Crl.A.(MD)No.894 of 2024, which has been admitted by this Court on 29.10.2024 and the 4th accused has preferred an appeal in Crl.A.(MD)No.925



Crl.M.P.(MD)No.11608 of 2024

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of 2024, which has been admitted by this Court on 06.11.2024. Pending the appeals, these petitions have been moved to suspend the sentence imposed on the petitioners. Since both the appeals are arising out of the conviction and sentence imposed by the trial Court in S.C.No.180 of 2014, both the petitions are taken up together and disposed of by this common order.

2. The learned counsel appearing for the petitioners submitted that the victim girl is of unsound mind. The victim's sister had a love affair with the 4th accused and with that motive, this complaint has been foisted. The learned counsel further submitted that the 1st accused died during the trial and the 2nd accused was granted suspension of sentence by this Court in Crl.M.P.(MD)No.17552 of 2023 dated 12.02.2024. The petitioners herein are the 3rd and 4th accused and they are also in the same footing as that of the 2nd accused. Since the 2nd accused was released on bail by suspending the sentence, the same relief shall also be extended to the petitioners herein also. The learned counsel further submitted that the petitioners are in jail from the date of conviction, i.e. from 03.08.2022 and they have already completed the sentence period of 2 years and 8 months.

3. The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that the victim girl is mentally unsound and taking advantage of that, the petitioners along with three others have abused her and also sexually



Crl.M.P.(MD)No.11608 of 2024

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exploited her. The victim girl got pregnant and also delivered a child. The Investigation Agency conducted a DNA Test and found that the 4th accused is the father of the child.

4. On the objection made by the learned Government Advocate (Crl. Side), the learned counsel for the petitioners submitted that the 4th accused/petitioner in Crl.M.P.(MD)No.11781of 2024 is prepared to marry the victim girl and to take care of the child.

5. In view of the submission of the learned counsel for the petitioners, this Court has also verified with the learned Government Advocate on the possibility of permitting the 4th accused to marry the victim girl. The learned Government Advocate submits that the victim girl and her parents are not willing to accept the marriage proposal of the 4th accused. He further submits that the victim girl is now in a home and the child is also in another home.

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

7. It is a case of gang rape, where, six persons are alleged to have sexually abused the victim girl. The DNA report reveals that the 4th accused is the father of the child. The 2nd accused was granted suspension of sentence by this Court in Crl.M.P. (MD)No.17552 of 2023 dated 12.02.2024. Further, the Investigation Agency has not



Crl.M.P.(MD)No.11608 of 2024

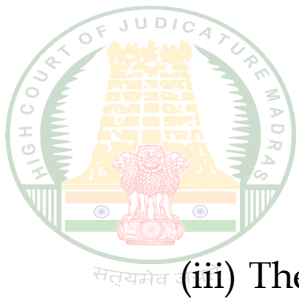
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conducted any identification parade before filing the final report. The 3rd accused is having certain arguable points which can be considered only at the time of final hearing and the appeal could not be taken up for final hearing for want of time. Considering the DNA report as against the 4th accused, this Court is not inclined to suspend the sentence imposed on the 4th accused/petitioner in Crl.M.P.(MD) No.11781 of 2024. However, considering the materials as against the 3rd accused and also considering the suspension of sentence granted to the 2nd accused, this Court is inclined to suspend the sentence imposed on the 3rd accused/petitioner in Crl.M.P.(MD)No.11608 of 2024.

8. Accordingly, the substantive sentence of imprisonment imposed on the 3rd accused/petitioner in Crl.M.P.(MD)No.11608 of 2024 alone is suspended pending disposal of the criminal appeals and the petitioner is ordered to be enlarged on bail on the following conditions:

(i) The petitioner in Crl.M.P.(MD)No.11608 of 2024 shall execute 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, Mahalir Neethimandram, Madurai.

(ii) The petitioner in Crl.M.P.(MD)No.11608 of 2024 shall also file an undertaking affidavit before the respondent Police that he will not disturb the victim girl at any point of time and he will not visit the occurrence place pending the appeal.



Crl.M.P.(MD)No.11608 of 2024

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(iii) The petitioner in Crl.M.P.(MD)No.11608 of 2024 shall stay at Tiruppur and report before the Inspector of Police, **(*)Tiruppur North Police Station**, Tiruppur, daily at 10.30 a.m. for a period of 30 days and thereafter, shall report before the trial Court once in a month i.e. on the first working day of every English Calender month at 10.30 a.m., till the disposal of the appeal.

9. In the result, Crl.M.P.(MD)No.11608 of 2024 is allowed and Crl.M.P.(MD)No.11781 of 2024 is dismissed.

sd/-
17/04/2025

**(*)Corrected as per Order of this Hon'ble Court
dated 29.04.2025 in CrI MP(MD).11608 of 2024
in CrI A (MD).No.894 of 2024.**

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30/04/2025
Sub-Assistant Registrar (C.S.-I/ II /III/ IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO BE SUBSTITUTED WITH THE ORDER DATED 17.04.2025 IS ALREADY
DISPATCHED.

To

1. The Sessions Judge, Mahalir Neethimandram, Madurai.
2. The Superintendent, Central Prison, Madurai.
3. The Inspector of Police, Nagamalai Pudhukottai Police Station,



Crl.M.P.(MD)No.11608 of 2024

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4. The Inspector of Police, Tiruppur North Police Station,
Tiruppur District.

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
Crl.M.P.(MD)Nos.11608 and 11781 of 2024
in
Crl.A.(MD)Nos.894 and 925 of 2024
Date :17/04/2025

NBF/SAR/ (17/04/2025) 7P/6C

VRN

PP/SAR/ (30/04/2025) 7P/6C

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