



Crl.M.P.(MD)No.17225 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)Nos.17225 and 17305 of 2023 and 1799 of 2024
in Crl.A.(MD)Nos.1077 and 1088 of 2023 and 928 of 2023

Crl.M.P.(MD)No.17225 of 2023

Ponnuchamy,
S/o.Ponniyalagan,
Ariyandipatti,
Warappur,
Singampunari Taluk,
Sivagangai District.

Petitioner/ A3

versus

State through
The Inspector of Police,
All Women Police Station,
Thiruppathur,
Sivagangai District.

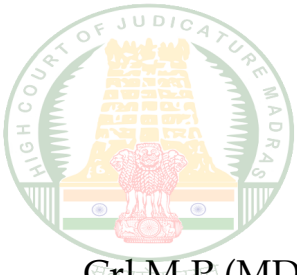
Respondent

For Petitioner(s):

Mr.P.R.Prithiviraj
Advocate

For Respondent(s):

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



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Crl.M.P.(MD)No.17305 of 2023

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Sivakumar,
S/o.Chinnu,
Kulavaipatti,
Thenoor,
Marungapuri Taluk,
Tiruchirappalli District.

Petitioner/ A2

versus

State through
The Inspector of Police,
All Women Police Station,
Thiruppathur,
Sivagangai District.

Respondent

For Petitioner(s):

Mr.P.R.Prithiviraj, Advocate

For Respondent(s):

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

Crl.M.P.(MD)No.1799 of 2024

Senthilkumar,
S/o.Adaikkan,
4/48, Suppurayapatti,
Kalingapatti,
Marungapatti Taluk,
Tiruchirappalli District.

Petitioner/ A4

versus

State through
The Inspector of Police,
All Women Police Station,
Thiruppathur,
Sivagangai District.

Respondent



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For Petitioner(s):

Mr.P.Aju Tagore,
Advocate

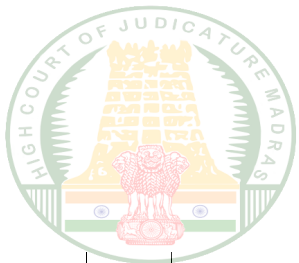
For Respondent(s):

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

COMMON ORDER

The petitioners herein are A2 to A4 in Spl.S.C.No.21 of 2022 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Sivagangai. After the trial, the trial Court, by its Judgment dated 28.05.2024, found the petitioners guilty for the following offences:

Sl. No.	Name of the petitioner	Rank of the petitioner	Offence	Period of sentence
1.	Sivakumar	A2	u/s.450 IPC	to undergo 5 years R.I. and to pay fine of Rs.2,000/- with default sentence of three months S.I.
			u/s. 5(1) r/w. Section 6 of POCSO Act	To under 20 years R.I. and to pay a fine of Rs.5,000/- with default sentence of six months S.I.



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2.	Ponnuchamy	A3	u/s.363 IPC	To undergo 5 years R.I. and to pay a fine of Rs.2,000/- with default sentence of 3 months S.I.
			u/s. 5(1) r/w. Section 6 of POCSO Act	To undergo 20 years R.I. And to pay a fine of Rs.5,000/- with default sentence of six months S.I.
3.	Senthil Kumar	A4	u/s.77 of Juvenile Justice (Care and Protection of Children) Act 2015	To undergo 7 years R.I. and to pay a fine of Rs.25,000/- with default sentence of six months S.I.
			u/s. 7 r/w. 8 of POCSO Act	To undergo 3 years R.I. and to pay a fine of Rs.3,000/- with default sentence of 3 months S.I.
			u/s. Section 5(1) r/w. Section 6 of POCSO Act.	To undergo 20 years R.I. and to pay a fine of Rs.5,000/- with default sentence of one year S.I.

Challenging the Judgment of conviction and sentence, the 2nd accused has preferred an appeal in Crl.A.(MD)No.1088 of 2023; the 3rd accused has preferred an appeal in Crl.A.(MD)No.1077 of 2023 and the 4th accused has preferred an appeal in



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Crl.A.(MD)No.928 of 2023. They have also moved these petitions for suspending the sentence imposed against them.

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2. These petitions filed in the year 2023 and 2024 have not been prosecuted for the past one year. When these petitions are listed for hearing today, the learned counsel appearing for A2 and A3 requests for adjournment.

3. The learned counsel appearing for A4 submits that the prosecution has not proved its case beyond reasonable doubt, however, the trial Court has imposed a moral conviction. The case of the prosecution is that the victim girl, who was aged about 16 years at the time of occurrence, was studying 11th standard and was staying in home during the corona period. At that time, her neighbour, one Selvaraj, A1, by taking advantage of her loneliness, had a physical relationship with her. He also induced his friend A2, Sivakumar. Both A1 and A2 are said to have repeatedly abused the victim girl sexually. Through A1 and A2, A3 had developed a relationship with the victim girl and sexually exploited her. A4-Senthilkumar is said to have taken the victim girl to an agricultural field, intoxicated her with liquor and sexually exploited her. Though the victim girl has stated that she was sexually exploited for several times, she has not stated the date on which she was sexually exploited by A4.

4. The learned counsel appearing for A4 also pointed out that A5 and A6,



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namely, Selvam and Siva, also attempted to have sexual relationship with the victim girl and they have been charge sheeted, however, they have been acquitted by the trial Court. The victim girl had a contact with A4 through Face-book. According to the prosecution, she was called by A4 through his mobile phone to the place of occurrence and had a physical contact. The learned counsel further submits that the investigating agency has not collected any details that A4 had any Face-book account and whether A4 called the victim girl over phone. Even according to the prosecution, the occurrence had taken place during corona period and there was no Tasmac shop during the relevant point of time and therefore, the case of the prosecution that A4 had induced the victim girl by providing liquor and had a physical relationship with her during the corona period is doubtful. Therefore, the learned counsel for A4 pleaded that the accused are having arguable points in the appeal and they are in jail for the past 17 months.

5. The learned Government Advocate (Crl. Side) submits that at the time of occurrence, the victim girl was aged about 16 years and the petitioners along with A1 had physical relationship with the victim girl and exploited her. The learned Government Advocate, by relying on the statement of the victim girl recorded under Section 164 Cr.P.C. and evidence of the victim girl, submits that the case of the prosecution has been established beyond reasonable doubt. Therefore, the trial Court



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found the petitioners guilty and convicted them as stated supra. He further submits that the trial Court has considered the evidence of the victim girl and acquitted A5 and A6 that they have not made any physical contact with the victim girl.

6. This Court considered the rival submissions and perused the materials available on record and also perused the statement of the victim girl recorded under Section 164 Cr.P.C and the evidence of the victim girl.

7. The victim girl was studying 11th standard and she was alone in her house during the corona period. At that time, A1, the neighbour of the victim girl, seems to have exploited her. Thereafter, A2, the friend of A1 and other friends are said to have exploited the victim girl.

8. As rightly pointed by the learned counsel appearing for A4, the victim girl was not in a position to inform the dates on which she was subjected for physical relationship. The case of the prosecution is that A4 had a contact with the victim girl through Face-book. But, they have not collected any material as if A4 had any Face-book account and he has regularly contacted the victim girl through mobile phone. The evidence of the victim girl has not been corroborated with any materials. In the wound certificate, no injury was noted down. The learned counsel appearing for A4 has made out certain arguable points, which would apply for other accused also.

9. Considering the period of incarceration and also considering the fact that the



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petitioners are having certain arguable points in this appeal and as there is no
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likelihood of listing the criminal appeals for final hearing in the near future, this
Court is inclined to suspend the sentence imposed on the petitioners.

10. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeals and the petitioners are ordered to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) each, with two sureties each for a like sum to the satisfaction of the Principal Special Court for Exclusive Trial of cases under POCSO Act, Sivagangai and on further condition that

(i) The accused No.2 shall stay at Tiruppur and appear before the Inspector of Police, Tiruppur Town Police Station, Tiruppur, daily at 10.30 a.m. till the disposal of the appeal.

(iii) The accused No.3 shall stay at Chengalpattu and appear before the Inspector of Police, Chengalpattu Town Police Station, Kancheepuram District daily at 10.30 a.m. till the disposal of the appeal.

(iv) The accused No.4 shall stay at Chennai and appear before the Inspector of



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Police, M6 Manali Police Station, Manali, Chennai, daily at 10.30 a.m. till the

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disposal of the appeal.

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05/03/2025

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

OGY

TO

1 THE PRINCIPAL SPECIAL JUDGE

FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
SIVAGANGAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUPPATHUR,
SIVAGANGAI DISTRICT.

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

COPY TO:

1 THE INSPECTOR OF POLICE,
TIRUPPUR TOWN POLICE STATION,
TIRUPPUR.

2 THE INSPECTOR OF POLICE,
CHENGALPATTU TOWN POLICE STATION,
KANCHEEPURAM DISTRICT.

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



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3 THE INSPECTOR OF POLICE,
M6 MANALI POLICE STATION,
MANALI, CHENNAI.

+1. C.C. to Mr.P.R.Prithiviraj, Advocate SR.No.2311 (I) DT.03/03/2025

+1. C.C. to Mr.P.R.Prithiviraj, Advocate SR.No.2351 (I) DT.04/03/2025

+1. C.C. to Mr.P.Aju Tagore, Advocate SR.No.2319 (I) DT.03/03/2025

ORDER
IN

Crl.M.P.(MD)Nos.17225 and 17305 of 2023 and 1799 of 2024
in Crl.A.(MD)Nos.1077 and 1088 of 2023 and 928 of 2023

Date :03/03/2025

SA/SAR. /05.03.2025/10P/11C

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