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CRL MP(MD) NO. 13611 of 2024 in

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12-02-2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

CRL MP(MD) NO. 13611 of 2024 in

Crl.A(MD) No.448 of 2023

Mahalingam

S/o. Muthaiah, North Street, Kondamanaayakkanpatti, Andipatti
Taluk, Theni District. Now confined at Central Prison, Madurai.

Petitioner

Vs

The State of Tamil Nadu,
Rep. by The Inspector of Police, Aundipatti Police Station, Theni
District. (Crime No. 997/2020)

Respondent

For Petitioner:

Mr.C. Susikumar, Advocate

For Respondent:

Mr.P.Kottaichamy
Government Advocate

ORDER

The petitioner is the sole accused in Spl.SC.No.5 of 2021, on the file of the Fast Track Mahila Court, Theni. He was found guilty by the trial Court, for the offence under Section 6 of the Protection of Children from Sexual Offences Act , 2012 and was imposed with rigorous imprisonment of 20 years with Rs.15,000/- as fine and in



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default he has to undergo 5 years simple imprisonment. He was also imposed with 5 years rigorous imprisonment with Rs.5,000/- as fine for the offence under Section 366 IPC, in default, he has to undergo 1 year simple imprisonment. As against the conviction and sentence imposed by the trial Court, this petitioner has already filed an appeal in CrI.A(MD) No.448 of 2023 and the same has been admitted. The petitioner has also filed an application to suspend the sentence imposed on him in CrI.MP(MD) No.15446 of 2023 in CrI.A(MD) No.448 of 2023 and the same was dismissed by this Court, by order, dated 28.08.2024.

2.This is the second application filed by the petitioner to suspend the sentence imposed on him. According to the learned counsel for the petitioner, the petitioner is languishing in jail from 02.03.2023, from the date of judgment. According to him, even during the trial, he was in jail for more than two years. The learned counsel further submits that the victim girl has persuaded the petitioner to marry her. The learned counsel has also drawn the attention of this Court to the Statement of the victim girl, recorded under Section 164 of Cr.P.C and submits that even according to her statement, there was no physical relationship between the petitioner and the victim girl.

3.The learned Government Advocate appearing for the respondent submits that



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this is the second application filed by the petitioner to suspend the sentence imposed on him. This Court has already considered the earlier application of this petitioner in detail and dismissed the same, considering the age difference between the petitioner and the victim. The age of the victim girl at the time of occurrence was 15 years and the petitioner was 33 years old at that relevant point of time and therefore, it cannot be projected, as if there was a love affair between them.

4.This Court considered the rival submissions made and also perused the materials placed on record, including the statement of the victim girl, which was recorded under Section 164 of Cr.P.C.

5.The petitioner was convicted by the trial Court in Spl.S.C.No.5 of 2021, by its judgment, dated 02.03.2021. The earlier application filed by this petitioner to suspend the sentence imposed on him was dismissed by this Court on 28.08.2024. The appeal preferred by this petitioner in Crl.A(MD) No.13611 of 2024 as against the judgment of the trial Court in Spl.S.C.No.5 of 2021 could not be taken up for final hearing in the near future. This Court has perused the statement of the victim girl, which was recorded under Section 164 of Cr.P.C., wherein, she has stated that she only compelled the petitioner to marry her. It appears that the petitioner was also a bachelor at that relevant point of time.

6.In view of the above and considering the period of incarceration and that the



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appeal could not be taken up immediately for final hearing, this Court is inclined to suspend the sentence imposed as against this petitioner.

7. Accordingly, this Criminal Miscellaneous Petition is ordered and 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 Judge, Fast Track Mahila Court, Theni and on further condition that the petitioner shall report before the said Court on the first working day of every English Calender month at 10.30 a.m., till the disposal of the appeal.

sd/-
12/02/2025

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12/02/2025

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

VRN
TO

1 THE JUDGE,
FAST TRACK MAHILA COURT, THENI.

2 THE INSPECTOR OF POLICE,
AUNDIPATTI POLICE STATION,
THENI DISTRICT.



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**3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.**

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

**ORDER
IN
CRL MP(MD) No.13611 of 2024
in
CrI.A(MD) No.448 of 2023
Date :12/02/2025**

SS/SAR- /12/02/2025/ 5P/5C

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