



CrI.M.P.(MD)No.17685 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

CrI.M.P.(MD)No.17685 of 2023

in CrI.A.(MD)No.1106 of 2023

Palpandi,
S/o.Kasiyan,
Door No.120/160, Colony,
Kandai,
Thirumangalam Taluk,
Madurai District.

Petitioner(s)

versus

The state,
Rep. by the Inspector of Police,
Aruppukottai All Women Police Station,
Virudhunagar District.

Respondent(s)

For Petitioner(s):

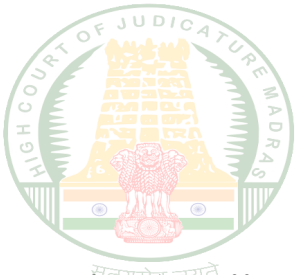
Mr.P.T.Ramesh Raja
Advocate

For Respondent(s):

Mr.A.S.Abul Kalam Azad,
Government Advocate

ORDER

The petitioner is the sole accused in Spl.S.C.No.53 of 2023 on the file of the Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur. After the trial, the trial Court, by its Judgment dated 31.05.2023, found the petitioner guilty



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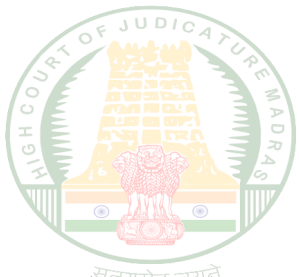
for the offence under Section 363 IPC and Section 6 of POCSO Act and convicted and
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sentenced him as follows:

(i) for the offence under Sections 363 IPC, to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/- with the default sentence of three months simple imprisonment.

(ii) for the offence under Section 6 of POCSO Act, to undergo 20 years rigorous imprisonment and to pay a fine of Rs.1000/- with the default sentence of three months simple imprisonment.

Challenging the Judgment of conviction and sentence, the petitioner has preferred an appeal in CrI.A.(MD)No.1106 of 2023 and the same was admitted by this Court on 18.12.2023. The petitioner has also moved this petition for suspending the sentence imposed on him by the trial Court.

2. The case of the prosecution is that the victim is a mentally retarded child and also suffering from apoplexy disease. On 12.02.2023, the accused came to Keezha Azhagiyanallur Village for attending a ear piercing ceremony. At about 16.00 hrs., when the victim was standing in front of a tea shop, the accused, with an intention to commit sexual assault on the victim, asked to board his two-wheeler bearing Reg.No.TN67 AD 2397 as if he will leave her with her mother, but, the victim replied



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him to leave her at Muniyandi Temple and went along with the accused. Thereafter, the accused took the victim to Cotton Garden situated near Thulukankulam and committed aggravated penetrative sexual assault.

3. The learned counsel appearing for the petitioner submits that P.W.1, the mother of the victim child, stated that the alleged occurrence had taken place on 13.02.2023, but, the FIR was registered on 12.02.2023, i.e. one day prior to the occurrence and it is completely against the case of the prosecution. He further submits that the Doctor, who examined the victim child, has categorically stated that there is no injury and therefore, the medical evidence has also falsified the case of the prosecution.

4. The learned counsel for the petitioner further submits that as per the evidence of P.W.1, the accused was arrested on the spot, but, the investigation officer/P.W.7 deposed that the accused was arrested only on the next date of the alleged crime. This clearly shows that P.W.1 has foisted this case against the petitioner by using her daughter. He further submits that the parents of the victim child have adopted the very same method in the earlier occasion by implicating an old man aged about 80 years with an allegation as if he has committed sexual assault upon the victim. Since the petitioner is in jail from the date of Judgment, he seeks for suspending the sentence imposed on the petitioner.



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5. The learned Government Advocate (CrI. Side) submits that the victim was aged about 16 years at the time of occurrence. In order to prove the age of the victim, birth certificate of the victim child issued by the competent authority was marked as Ex.P1. He further submits that the victim child is a mentally retarded child. She was examined through the qualified Special Teacher/P.W.3 and she identified the accused and clearly deposed about the alleged occurrence. Further, P.W.5-Doctor, who examined the victim child, deposed that hymen was not intact. Therefore, the trial Court came to a conclusion that the prosecution has proved the case beyond reasonable doubt and convicted and sentenced the petitioner as stated above.

6. In this case, the victim is a mentally retarded child. Considering the nature of offence and also considering the available materials as against the petitioner, this Court is not inclined to entertain this petition. Accordingly, this Criminal Miscellaneous Petition is dismissed.

7. The Registry is directed to prepare the typed set of papers and list the main appeal for final hearing after four weeks.

sd/-

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/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

1 THE JUDGE,
SPECIAL COURT FOR POCSO ACT CASES,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2 THE INSPECTOR OF POLICE
ARUPPUKOTTAI ALL WOMEN POLICE STATION,
VIRUDHUNAGAR DISTRICT.

3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.

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

COPY TO:
THE SECTION OFFICER,
T & P SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP(MD) No.17685 of 2023
in CrI.A.(MD)No.1106 of 2023
Date :07/03/2025

SS/SKN/SAR- /02/04/2025/ 5P/6C

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