



CRL MP(MD)No.78 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 06.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRL MP(MD)No.78 of 2024

in CRL A(MD)No.19 of 2024

R.Pitchaimari

... Petitioner

Vs

The State represented by
All Women Police Station,
Rajapalayam
Virudhunagar District.
[Crime No.07 of 2019]

... Respondent

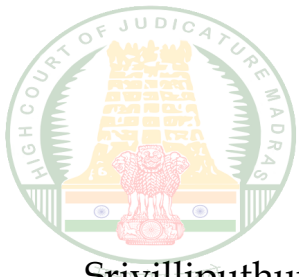
Prayer: Petition filed under Section 389(1) of CrPC to suspend execution of sentence of imprisonment imposed by the Special Court for Exclusive Trial of Cases under POCSO Act Virudhunagar at Srivilliputhur in SplSC.No.25 of 2019 by judgment dated 05.07.2022 and enlarge the petitioner pending disposal of the criminal appeal.

For Petitioner : Mr.M.Jagadessh Pandian

For Respondent : Mr.P.Kottaichamy,
Government Advocate (Crl Side)

ORDER

The petitioner / sole accused in SplSC.No.25 of 2019 on the file of Special Court for Exclusive Trial of Cases under the POCSO Act Virudhunagar at



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Srivilliputhur was found guilty, convicted and sentenced to undergo 10 years rigorous imprisonment with a fine of Rs.10,000/-, in default, to undergo 1 year simple imprisonment for the offence under Section 5(1) r/w 6 of POCSO Act and sentenced to undergo 5 years rigorous imprisonment with a fine of Rs.5,000/-, in default, to undergo 1 year simple imprisonment for the offence under Section 450 of IPC (3 counts) for each count. As against the conviction, the petitioner has filed an appeal in CrlA(MD)No.19 of 2024 and it has been admitted by this Court. Along with the appeal, the petitioner has filed this petition to suspend the sentence.

2. When this petition was taken up for hearing on 20.02.2024 this Court was not inclined to entertain this petition and directed the Registry to prepare the typed set of papers in this case. The typed set of papers is made ready. However the appeal could not be taken up for hearing. Again this petition was listed on 18.03.2024. When this application is taken up for hearing today, Mr. Raja Boopathi, learned counsel for the petitioner submits that he had already returned the papers to the petitioner and a new counsel Mr. Jagadeesh Pandian, has entered appearance and he seeks time to proceed with the petition.

3. The learned Government Advocate (Crl Side) appearing for the respondent submits that the defacto complainant - PW1 is the mother of the victim child and she is having one son and two daughters. The victim girl is her last daughter and



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she was studying 8th standard at the time of occurrence. PW1 is working as a construction worker and her husband is a daily wage worker. The petitioner is residing in the same street and he is a Mason. On 13.01.2019 around 1.00pm the petitioner asked PW1 to send her daughter to his house to verify the salary accounts and accordingly PW1 sent the victim girl to the petitioner's house. He had taken the victim to his bed and pressed her breasts, touched her vagina and committed penetrative sexual assault on her and he threatened to kill her if she had disclosed it to any one. Again on 19.07.2019 on knowing PW1 was not in her house, the petitioner came to the victim's house under the guise of giving salary of PW1 and committed the penetrative sexual assault on the victim girl again. On 23.02.2019 he came to the PW1's house and threatened the victim girl to share the bed with him and the victim girl escaped from the petitioner out of fear. When PW1's son who came from school, the victim girl narrated his brother about the offence committed by the petitioner. PW1 returned from work at 6.00pm and she noticed the petitioner was quarrelling with her son, threatening and abusing her son. When she enquired with her crying daughter, she informed the repeated sexual assault of the petitioner on her and his intimidation to kill her. He further submits that the prosecution has established its case by examining 10 witnesses and marking 18 exhibits.



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4.The learned Government Advocate has relied on the statement recorded under Section 164 of CrPC from the typed set of papers, which is made ready and he is also ready to proceed with the appeal.

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

6.This petition was filed on 03.01.2024. The petitioner has not prosecuted this petition for the past one year. Though the typed set of papers is made ready, the petitioner is not ready to proceed with the appeal. Considering the materials available on record, this Court is not inclined to entertain this petition on the grounds raised in this petition. Accordingly this petition is dismissed.

Since this petition is dismissed, the Registry is directed to list the main appeal for final hearing on 16.04.2025.

sd/-
06/03/2025

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/03/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO
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1 THE JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT
VIRUDHUNAGAR AT SRIVILLIPUTHUR.

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

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

ORDER
IN

CRL MP(MD)No.78 of 2024
in CRL A(MD)No.19 of 2024
Date :06/03/2025

MK/GSV/SAR /27.03.2025 5P/5C

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