



CrI.O.P.No.5586 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2026

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.5586 of 2026

and

CrI.M.P.Nos.4214 & 4216 of 2026

Surendhar

... Petitioner

Vs.

1.State rep. by
The Inspector of Police,
Bommidi Police Station,
Dharmapuri District.
(Crime No.111 of 2022).

2.Senthil.V

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of BNSS to call for the records in Spl.S.C.No.46 of 2023 pending on the file of the Sessions Judge, Fast Track Mahila Court, Dharmapuri and quash the same.

For Petitioner : Mr.V.Johnson Yuvaraj

For R1 : Mr.Leonard Arul Joseph Selvam
Additional Public Prosecutor



Crl.O.P.No.5586 of 2026

ORDER

WEB COPY

The petitioner/accused in Spl.S.C.No.46 of 2023 facing trial for the offence under Sections 366, 363 IPC and Sections 5(1) and 6(1) of Protection of Children from Sexual Offences Act (POCSO Act), filed this quash petition.

2.The brief facts of the case is that the second respondent/defacto complainant/father of the victim girl lodged a complaint on 17.05.2022 stating that his younger daughter aged about 17 years studying 12th Standard in Government Higher Secondary School, Bairnatham. On 16.05.2022 at about 5.30 p.m., the victim girl went to tuition class, at that time, the petitioner who belongs to Bairnatham Village by sugar coated words forcibly took the victim girl. Hence, complaint lodged and case in Crime No.111 of 2022 for the offence under Section 366 IPC registered. The Inspector of Police took up investigation and was making search for the victim girl. On 17.05.2022 at about 1.30 p.m. the petitioner's relative brought the victim girl in a car and produced her in the Police Station. At



that time, the victim's parents were present in the Police Station. When the victim girl was enquired, she informed that she went to the tuition centre at Bairnatham and near the tuition centre there is a Bakery, the petitioner called her to come to the said Bakery. The petitioner and the victim were in love with each other for six months and they knew each other. Thereafter the victim met the petitioner and the victim was thereafter forcibly taken by the petitioner to Paraiyapatti where the victim was made to stay in the room of petitioner's friend and on the next day, on coming to know about the police complaint the victim was brought to the Police Station. Further, the victim disclosed that she belongs to Udayar community and the petitioner belongs to Adi Dravidar community and despite the same, they were having love affair. On 12.03.2022, the victim girl went to tuition centre, at that time, the petitioner informed that without seeing her and speaking to her, he is feeling dejected and informed that he would come to the Baby School which is next to the victim's house and wait for her. On 13.04.2022 at about 4.00 a.m., the victim went to the School, met the petitioner and he promised the victim girl that he would marry her. The victim objected and stated that after

completing her 12th standard, proposal of marriage can be considered but the



petitioner forcibly committed penetrative sexual assault on 13.04.2022 and again thereafter on 25.04.2022. The victim's statement and her parents' statement recorded. The respondent police visited the scene of occurrence, prepared observation mahazar, rough sketch in the presence of witnesses and the victim's school certificate committed from Assistant Head Master of Government Higher Secondary School, Bairnatham confirming that the victim's date of birth was 22.11.2004 and she was a minor. The victim was examined by Doctor attached to Government Hospital, Aroor on 17.05.2022 at about 7.20 p.m. Thereafter, sections were altered to offence under Sections 366, 363 IPC and Section 5(l) and 6 of POCSO Act. The petitioner was arrested on 20.05.2022 and on his confession, the bike was seized. The petitioner was produced for medical examination on 30.05.2022, potency certificate collected and the victim was also produced before the Magistrate, 164 statement recorded on 27.05.2022. On completion of investigation, charge sheet filed listing LW1 to LW22 and documents.

3.The learned counsel for the petitioner submitted that the petitioner and the victim, both studied in the same School but in different classes, they were interested in each other, had a love affair and they were regularly



meeting and were conversing. Both the petitioner and the victim belong to different communities and their social background was an obstacle to their relationship. The victim was in mad of love with the petitioner and she used to call the petitioner to come near her house early in the morning, the victim sneak out of the house and both were together. On one such occasion, the victim and the petitioner were seen together by the parents and hence, a complaint was lodged as though the petitioner kidnapped the victim girl and committed penetrative sexual assault. The victim was forced to tow the line of her parents and their community people since the continued relationship of the petitioner and the victim would cause disrepute to their community at large. Left with no other option, the victim gave statement against the petitioner. In reality, the petitioner and the victim had love affair and they had no physical relationship. The victim was a keen sports person and she was regularly doing cycling, due to which her hymen was not intact which cannot straight away attributed and projected against the petitioner as though he had committed penetrative sexual assault. The admitted case is that the victim appeared before the respondent police on 17.05.2022 at about 1.30 p.m. and on the same day at about 7.20 p.m., the victim was produced before the Doctor. LW14/Dr.Krishnapriya examined the victim girl and gave a



report stating that the victim may be subjected to sexual assault but no recent evidence of intercourse. He further submitted that the petitioner is the first graduate hailing from the low strata of the society. The victim was more than 17 years and she was in her adolescent age and the petitioner was around 21 years at the time of alleged occurrence. The petitioner completed his B.ed course and presently preparing to appear for TNPSC examination and other competitive examinations. He further submitted that the victim is now continuing with her studies, studying III year Bachelor of Engineering course at Sona College of Technology, Salem. The parents of the victim realized that in a knee jerk reaction complaint was lodged against the petitioner since the victim was insistent to continue her love relationship with the petitioner despite their objections. Now both the petitioner and the victim realized their social status, focused on their future and education and decided to part ways and the parents of the victim also agreed to the same and come forward to withdraw the complaint against the petitioner and filed a joint compromise memo.

4.The learned Additional Public Prosecutor submitted that in this case, the victim is aged about 17 years and few months, her date of birth is



22.11.2004 which is confirmed by School certificate given by Assistant Head Master/LW12. The victim being in the tender age unknowingly had friendly relationship with the petitioner and the petitioner forced the victim to meet him during April 2002. The victim was called to the nearby Baby School where the petitioner committed penetrative sexual assault. On 16.05.2022 when the victim went to attend the tuition, the petitioner came there and forcibly taken her in his bike to his friend's place where they stayed over night. On the next day i.e., on 17.05.2022 on coming to know about the complaint lodged by the victim's father/defacto complainant, the victim was brought by the petitioner's friend in a car and dropped in the Police Station. On enquiry, the victim disclosed about the petitioner committing penetrative sexual assault. The victim was referred to the Government Hospital, Aroor wherein LW14 examined the victim. FIR initially registered under Section 366 IPC was later altered and the victim was produced before the Magistrate and the victim confirmed the petitioner committing penetrative sexual assault. The respondent visited the scene of occurrence, prepared observation mahazar and rough sketch in the presence of witnesses, the statement of victim's parents recorded and on 20.05.2022, the accused was arrested, who admitted the relationship and taking the



victim forcibly in his case. Thereafter, the petitioner was produced before the Doctor, potency certificate obtained and the victim's school certificate confirming her age collected. On completion of investigation, charge sheet file. The victim was consistent in her earlier statement and before the Magistrate and also during the trial. The medical evidence confirms that hymen was not intact. The Trial Court confirmed that the victim was forcibly taken by the petitioner and committed penetrative sexual assault. He fairly submitted that now the present petition filed with a joint affidavit of the petitioner, defacto complainant and the victim, they were enquired, the victim and defacto complainant confirmed that now goodself prevail between them and both the petitioner and victim are focused on education and their future well being. The victim and the defacto complainant is not inclined to continue with the case.

5.Today the petitioner, defacto complainant and the victim are present. On interaction, they confirmed that now goodself prevail between them and they decided not to further precipitate the matter considering the future and career of the petitioner and the victim.



WEB COPY

6.Considering the submissions made and on perusal of the materials, it is seen that both the petitioner/accused and the victim in this case studied in the same school but in different classes which is confirmed by LW11/Headmaster and LW12/Assistant Headmaster of Government Higher Secondary School, Bairnatham. The petitioner's date of birth is 20.08.2000 and the victim's date of birth is 22.11.2004, the victim was aged about 17 years and few months, studying 12th standard. Both the victim and the petitioner had love affair, the victim consciously hiding and continuing her love affair with the petitioner. Both the petitioner and the victim were meeting often and the victim confirms that on several occasions she used to set alarm at earlier hours at about 4.00 a.m. and go out to meet the petitioner and come back without notice of anyone in the house. The love and bondage towards each other was so thick and they continued their relationship. But both had a different social background. The victim belong to Udayar community and the petitioner belong to Scheduled Caste community which was a major obstacle for both of them to join together. During their teens not knowing the seriousness and the consequences of the marked wedge and difference in the social set up, they continued their love



affair. During this period, they were intimate. The victim went along with the petitioner on 16.05.2022, stayed over night in the house of petitioner's friends and thereafter on 17.05.2022, the victim was brought to the Police Station by petitioner's friend at about 1.30 p.m.

7.Earlier based on the complaint of defacto complainant, case in Crime No.111 of 2022 for the offence under Section 366 IPC registered. After the victim appeared and recording her statement, the offence was altered to Sections 366, 363 IPC and Sections 3 r/w. 4(1) of POCSO Act. After enquiry, the victim was referred to medical examination on 17.05.2022 and LW14 examined the victim at about 7.20 p.m., issue medical certificate and gave opinion as "It may suggest to sexual assault no recent evidence of intercourse", which confirms that even on the day when the victim was lastly eloped on 16.05.2022 and stayed together with the petitioner there was no penetrative sexual assault. The Forensic Expert/LW15 in his report dated 23.05.2025 confirmed that "Did not detect blood tissue on item 1 (Nail clippings), Did not detect semen on item 2 (few pieces of dark hair)". The victim in her statement admits that on previous occasion i.e. on 13.04.2022 at about 4.00 a.m., she set the alarm and woke up, went to the nearby Baby



School, met the petitioner and came back by 5.00 a.m. and she lead a normal life without notice of her parents and family members. In her statement, there is no reference to her second meeting with the petitioner on 25.04.2022 but the sections were again altered on 23.11.2022 that on 25.04.2022 the petitioner committed penetrative sexual assault for the second time, hence sections were altered to 5(l) r/w. 6 of POCSO Act along with IPC offences, thereby projecting the petitioner committed aggressive penetrative sexual assault which is without any materials. The petitioner hailing from deprived community, first generation graduate and completed his B.ed course. Both the petitioner and the victim were in teens, due to physical and physiological developments, not knowing the social divide and consequences, had a love affair and despite the parents of the victim taking all steps to separate the victim from the petitioner which was stoutly ignored and refused by the victim, she continued her relationship. The victim is a sports person and also used to ride cycle regularly, in view of the same finding hymen not intact would not straight away lead to the inference that the victim was subjected to penetrative sexual assault on the above facts. The medical evidence is also suggestive and now the petitioner, defacto complainant and the victim appeared and confirmed that both the petitioner and the victim are



now separated, focused on their education and career, confirming that they are not further interested to continue with the case and it was a knee jerk reaction complaint was lodged with some manifestations. Now coming into reality and considering the future and well being of both the petitioner and the victim, the issue has been deliberated and resolved. It has been decided not to further pursue the complaint considering the reality of social divide and the victim being of tender age, in their teens, not knowing the seriousness and consequences continued their relationship and merely on the suggestive opinion, it cannot be said that the petitioner committed the offence beyond reasonable doubt.

8.The Hon'ble Apex Court in the case of ***“K.Dhandapani vs. State by the Inspector of Police reported in 2022 SCC Online SC 1056”*** considered the subsequent events and observed that the Courts cannot shut its eyes to the ground reality and disturb the life of the petitioner as well as the victim girl. In view of the same, this Court finds that continuation of the proceedings will serve no purpose, on the other hand it would only cause damage and affect the well being of the petitioner and the victim.



CrI.O.P.No.5586 of 2026

WEB COPY

9. Accordingly, this Criminal Original Petition stands allowed and as a sequel, the case in Spl.S.C.No.46 of 2023 on the file of the learned Sessions Judge, Fast Track Mahila Court, Dharmapuri is hereby quashed. It is made clear that this case against the petitioner cannot be quoted or referred as an obstacle for the petitioner's future studies and employment in any manner. Consequently, connected miscellaneous petitions are closed.

16.03.2026

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
cse

To

- 1.The Inspector of Police,
Bommidi Police Station,
Dharmapuri District.
- 2.The Sessions Judge,
Fast Track Mahila Court,
Dharmapuri.
- 3.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.O.P.No.5586 of 2026

M.NIRMAL KUMAR, J.

cse

Crl.O.P.No.5586 of 2026

16.03.2026