



CrIMP(MD)No.10979 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CrIMP(MD)No.10979 of 2025
in
CrIA(MD)No.876 of 2025

Chellaiah

...Petitioner

Vs

1.The State of Tamil Nadu
rep by its
the Inspector of Police,
Sivagangai All Women Police Station,
Sivagangai District.

2.YYY,
YYY,
YYY,
Sivagangai District.

... Respondents

[R2 is suo motu impleaded vide
order dated 28.07.2025 in
CrI MP(MD)No.9833 of 2025]

PRAYER: Petition filed under Section 430 of Bharatiya Nagarik Suraksha Sanhita to suspend the sentence imposed on the petitioner vide impugned sentence dated 15.04.2025 made in SplSC.No.54 of 2022 on the file of the Sessions Judge, Special Court for Exclusive Trial under POSCO Act Cases, Sivagangai pending disposal of the above criminal appeal.



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For Petitioner : Mr.M.S.Jeyakarthik
For Respondent : Mr.AS.Abul Kalaam Azad,
Government Advocate

ORDER

The petitioner is the accused in SplSC.No.54 of 2022 on the file of the Sessions Court, Special Court for Exclusive Trial under POCSO Act Cases, Sivagangai. He has been tried and by judgment dated 15.04.2025 he has been found guilty, convicted and sentenced as follows:

Sl.No	Section	Punishment	Fine (in Rs)	default class
1	9(1) r/w 10 of POCSO Act	5 years rigorous imprisonment	1,000	1 month simple imprisonment
2	9(m) r/w 10 of POCSO Act	5 years rigorous imprisonment	1,000	1 month simple imprisonment
3	11(i) r/w 10 of POCSO Act	2 years rigorous imprisonment	1,000	1 month simple imprisonment

Challenging the same the petitioner has filed an appeal in CrIa(MD)No.876 of 2025 and the same has been admitted by this court by order dated 11.03.2026. Along with the appeal the petitioner has also filed this petition to suspend the sentence.

2.The case of the prosecution is that the petitioner has sexually abused a minor child aged about 9 years.



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3.The victim's mother PW2 went for coolie work and her father was also away for some medical treatment. The child was playing near her house and taking advantage of the same, the petitioner is said to have abused the child by inducing her to provide biriyani. PW3 and PW4 who are the residents of the area have witnessed the occurrence and reported the same to PW2. PW2 after verification with the victim has lodged the complaint and it was registered on 04.12.2021 and the statement under Section 164 CrPC was also recorded. The victim child in her statement under Section 164 CrPC has narrated the manner in which she has been abused now and also in the earlier occasions twice by providing biriyani.

4.PW3 and PW4 have narrated before the investigating officer the manner in which the victim child was abused. They have not supported the entire case of the prosecution and therefore, they have been treated hostile. However, the trial court has found the petitioner guilty based on the statement of the victim.

5.The learned counsel for the petitioner submits that the occurrence was on 02.12.2020 for which the complaint was lodged after



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two days. It is alleged that there were three incidents, however the case was registered only based on the incident took place on 02.12.2020 and there is no reference about the earlier incidents. During the trial the case has been improved that there were two similar incidents earlier. He also points out that the case itself has been registered based on the report of PW3 and PW4 to PW2. However they have turned hostile He also points out that there was no talking terms between the petitioner and PW1 to PW4. Therefore, this case has been foisted.

6.The learned counsel further submits that the trial court has failed to appreciate the case properly and rendered the conviction solely based on the evidence of the prosecution.

7.The learned Government Advocate appearing for the respondent submits that all the three incidents were narrated even in the first information report and the trial court has also appreciated the manner in which the said occurrence had taken place. He further submits that the delay is only two days and it is properly explained. The motive attributed by the petitioner has also been discussed by the trial court and finding



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has been rendered. Apart from PW 1 and PW2, two other witnesses have also supported the case of the prosecution. Since they have not fully supported the prosecution case, they were treated as hostile. However, they have stated that this petitioner has shown his private part to the victim child.

8.This court has considered the rival submissions made.

9.The victim child is the neighbour of this petitioner and he is said to have abused the victim child in the absence of her parents at home. On the date of occurrence, on 02.12.2021 when the parents of the victim child was away and the victim child was playing alone the petitioner is said to have abused her, which was noticed by the witnesses PW3 and PW4, who are also neighbours. On their information, PW2 / mother of the victim verified with the victim and lodged the complaint on 04.12.2021. This two days delay cannot be considered as a material fact to disbelieve the case of the prosecution. Though PW3 and PW4 were treated as hostile, they have supported the case of the prosecution to the extent that the petitioner on the date of occurrence had shown his private



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part to the victim child, whereas PW1 victim child in her statement under Section 164 CrPC before the learned Judicial Magistrate and also before the trial court has narrated the manner in which she has been exploited by providing some food. Considering the material available, this court is not inclined to entertain this petition. Accordingly, this petition is dismissed.

11.03.2026

DSK

To

1.The Inspector of Police,
Sivangai All Women Police Station,
Sivangai District.

2.The Sessions Judge,
Special Court for Exclusive
Trial under POSCO Act Cases,
Sivangai

Copy to

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI.J.,

DSK

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