



Crl.M.P.(MD)Nos.9236 and 12894 of 2025

in Crl.A.(MD)Nos.573 and 14 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2026

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THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)Nos.9236 and 12894 of 2025

in Crl.A.(MD)Nos.573 and 14 of 2023

Kalimuthu

Vijai

... Petitioner in

Crl.M.P.(MD)No.9236/2025

... Petitioner in

Crl.M.P.(MD)No.12894/2025

versus

State rep. by

The Inspector of Police,

All Women Police Station,

Rajapalayam,

Virudhunagar District.

... Respondent in

both petitions

Petitions filed under Section 430(1) of BNSS 2023, seeking to suspend the sentence imposed on the petitioners in Spl.S.C.No.44 of 2018 dated 04.11.2022 on the file of the Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur and enlarge him on bail till the disposal of the Appeal.



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For Petitioner in
Crl.M.P.(MD)No.9236/2025 : Mr.S.Maya Perumal
For Petitioner in
Crl.M.P.(MD)No.12894/2025 : Mr.S.G.L.Rishwanth

For Respondent
in both petitions : Mr.S.Prakash,
Government Advocate (Crl.side)

COMMON ORDER

The petitioners are accused Nos.1 and 2 in Spl.S.C.No.44 of 2018 on the file of the Special Court for POCSO Act Cases, Virudhungan District at Srivilliputhur. They were tried for the offence under Sections 363 and 506(1) IPC and Sections 5(1) r/w. 6 of POCSO Act that they had forcibly made sexual assault on the victim girl. After the trial, the trial Court, by its order dated 04.11.2022, found the petitioners guilty for the offence under Sections 363 and 506(1) IPC and Sections 5(1) r/w. 6 of POCSO Act, convicted and sentenced them as under:

Sl.No	Sections	Punishment	Fine amount	Default
1.	363 IPC	One year rigorous imprisonment each	Rs.1,000/- each	3 months simple imprisonment each



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2.	506(1) IPC	Six months rigorous imprisonment each	Rs.1,000/- each	One month simple imprisonment each
3.	5(1) r/w. 6 of POCSO Act	10 years rigorous imprisonment each	Rs.2,000/- each	One year simple imprisonment each

As against the Judgment of conviction and sentence, they have filed criminal appeals in Crl.A.(MD)Nos.573 and 14 of 2023 and the same were admitted by this Court on 20.07.2023 and 26.01.2023 respectively. The 2nd accused has already moved petitions thrice for suspension of sentence before this Court and the same were dismissed by this Court, by order dated 23.01.2023, 19.07.2023 and 13.03.2025. The 1st accused has already moved a petition for suspension of sentence and the same was dismissed by this Court by order dated 13.03.2025. This is the 4th petition for the 2nd accused and 2nd petition for the 1st accused.

2. The learned counsel appearing for the petitioners submits that the trial Court has erroneously convicted the petitioners for the offence under Section 5(1) of POCSO Act, without considering the material evidence that the victim girl was on menstruation during the doctor examination. The Police has recovered the dress of the victim girl, however, they could not point out any



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bloodstain from the cloth. He further submits that the petitioners are in jail for more than three years and eight months. Therefore, he seeks to suspend the sentence.

3. The learned Government Advocate (Crl. Side) submits that the victim girl, who was aged about 14 years, has been abused by the petitioners and they had frequent physical relationship with her. He further submits that all the grounds raised by the petitioners were already considered and rejected by this Court, by order dated 13.03.2025, in Crl.M.P.(MD)Nos.10363 and 16529 of 2023. The learned Government Advocate, by pointing out the evidence of Doctor-P.W.10, submits that the victim girl has suffered injuries on her private parts and nail marks were also present in her private parts.

4. This Court considered the rival submissions made and also perused the evidence of the victim child and Doctor.

5. This Court has elaborately discussed the case of the prosecution and the case of defence in the earlier petitions filed by the petitioners in Crl.M.P. (MD)Nos.10363 and 16529 of 2023 and rejected the same by its order dated



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13.03.2025. Since there is no change in circumstances of this case, this Court is not inclined to entertain these petitions.

6. Accordingly, the Criminal Miscellaneous Petitions are dismissed. Considering the fact that the petitioners are in jail for more than three years and eight months and the typed set of papers is made ready, the Registry is directed to list these appeal under the caption “accused in jail case” for final disposal in the second week of April 2026.

18.03.2026

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To

1. The Inspector of Police,
All Women Police Station,
Rajapalayam,
Virudhunagar District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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B.PUGALENDHI, J.

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