



Crl.M.P.(MD)No.11688 of 2024

in Crl.A.(MD)No.912 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.06.2026**

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THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.11688 of 2024

in Crl.A.(MD)No.912 of 2024

Ayyappan

... Petitioner/A1

versus

The State,
Rep. by Inspector of Police,
Orathanadu Police Station,
Thanjavur District.

... Respondent

Petition filed under Section 389 of Cr.P.C. to suspend the sentence imposed by the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur District, in Spl.S.C.No.67 of 2020 by Judgment dated 05.04.2023 and enlarge the petitioner/appellant on bail pending disposal of the main criminal appeal.

For Petitioner : Mr.Na.Manimaran

For Respondent : Mr.A.Robinson,
Counsel for State of Tamil Nadu (Crl. side)



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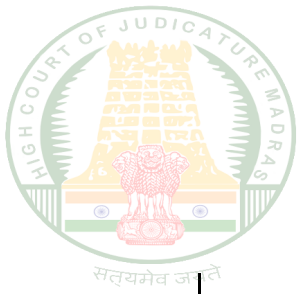
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ORDER

The petitioner is the 1st accused in Spl.S.C.No.67 of 2020 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur District. He was tried along with another accused for the offence under Section 11(iv) r/w. Section 12, 5(l) r/w. Section 6 of POCSO Act 2012 and Section 366 IPC and Section 9 of Prohibition of Child Marriage Act. The 2nd accused was tried for the offence under Section 366 IPC r/w. 109 IPC and Section 10 of Prohibition of Child Marriage Act 2006 and Section 5(1) r/w. 17 of POCSO Act. The allegation as against the petitioner/A1 was that he took the victim girl, married her and had a sexual relationship with her. The allegation as against the 2nd accused was that he helped the 1st accused to marry the victim girl. In conclusion of trial, the trial Court, by its Judgment dated 05.04.2023, acquitted the 2nd accused from the charges, however, found the petitioner/A1 guilty for the offence under Section 11(iv) r/w. Section 12, 5(l) r/w. Section 6 of POCSO Act 2012 and Section 366 IPC and convicted and sentenced him as under:

Sl.No	Sections	Punishment	Fine amount	Default
1.	6 of POCSO Act	20 years rigorous imprisonment	Rs.10,000/-	One year rigorous imprisonment



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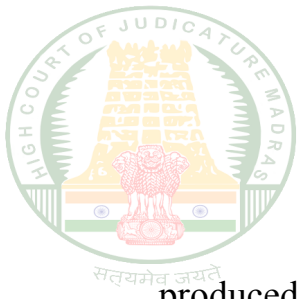
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2.	366 IPC	5 years rigorous imprisonment	Rs.5,000/-	6 months rigorous imprisonment
3.	Since the petitioner was punished under Section 6 of POCSO Act, there is no separate punishment for the offence under Section 11(iv) r/w. 12 of POCSO Act			

Challenging the Judgment of conviction and sentence, the petitioner has preferred a criminal appeal in Crl.A.(MD)No.912 of 2024 and the same has been admitted by this Court on 29.10.2024. Along with the appeal, the petitioner has moved this petition seeking to suspend the sentence imposed by the trial Court. However, when the petition was listed for hearing, it was not prosecuted by the petitioner. Later, the learned counsel, who filed this petition, has filed a memo that he returned the papers and vakalath to the petitioner. Thereafter, the case has been listed in the name of the petitioner. Since the petitioner is in jail, there was no representation for the petitioner. Therefore, this Court, by order dated 03.06.2026, appointed Mr.Na.Manimaran, learned counsel, who is having rich experience in the criminal side, as a legal aid counsel.

2. The learned counsel for the petitioner submits that it is a case of love affair. Though the victim girl was aged about 16 years, she was secured and



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produced before the Court for recording the statement under Section 164 Cr.P.C.

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She has stated before the learned Judge that she had a love affair with the petitioner and voluntarily went along with the petitioner on her volition and there is no sexual relationship between them. However, during the trial, the victim girl-P.W.2 has changed her version and stated as if the petitioner had a sexual relationship with her. This statement, according to the learned counsel, is at the instance of her parents. The learned counsel further submits that the victim girl went missing on 05.02.2020, whereas, the complaint was lodged only on 08.02.2020 and there was no explanation for the delay of 3 days in lodging the complaint. Further, the case was registered only on 09.02.2020 at about 00.10 hrs. ie. midnight, but, FIR was forwarded to the learned Judicial Magistrate only on 10.02.2020 at about 4.00 p.m. However, there was no explanation for the said delay. The learned counsel further submits that the victim girl, when produced before the Doctor, stated that she had a sexual intercourse with the petitioner out of her own consent. However, the medical examination did not reveal any sign of sexual activity and no external injuries were found on the body of the victim. The trial Court has also not appreciated the evidence of P.W.10 properly. According to him, the petitioner is in jail for nearly three years and six months.



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3. The learned Counsel for State of Tamil Nadu (Crl. Side) submits that though the victim girl has stated that she went voluntarily along with the petitioner, she has stated otherwise in the evidence. The statement recorded under Section 164 Cr.P.C. cannot be relied upon and the evidence alone has to be relied upon and therefore, according to the learned counsel, the prosecution has established its case. He further submits that the consent is immaterial, since victim girl was aged about 16 years. According to him, the prosecution has proved the age of the victim girl during the trial.

4. This Court considered the rival submissions made.

5. The petitioner has been convicted for 20 years that the petitioner has taken the victim girl and had a physical relationship with her. The doctor, who examined the victim girl, has not noted down any injury. The victim girl, when she was produced before the Magistrate at the initial stage, has stated that she voluntarily went along with the petitioner. The petitioner was aged about 22 years at the relevant point of time and the victim girl was aged about 16 years. Both were adolescents and without knowing the consequences, they have

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committed this offence. The petitioner is in jail for nearly three years and six months.

6. The petitioner raised certain arguable points in this appeal, which can be appreciated during the final hearing of appeal. However, the appeal could not be taken up immediately for want of time. Considering the available evidence, the period of incarceration and also the fact that the appeal could not be taken up for hearing immediately, this Court is inclined to suspend the sentence imposed against the petitioner.

7. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioner is ordered to be enlarged on bail on the following conditions:

(i) The petitioner shall execute a bond for Rs.50,000/- (Rupees fifty thousand only) with two sureties each for a like sum to the satisfaction of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur District.

(ii) The petitioner and the sureties shall submit a copy of their Aadhaar Card or any other identity card issued by the Government in proof of their



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residence address, before the trial Court as well as before the respondent Police.

In the event, if there is any change of address, the same shall be intimated to the respondent Police without fail.

(iii) The petitioner shall not misuse the liberty granted to him by indulging in any further offence.

(iv) The petitioner shall appear before the respondent Police daily at 10.30 a.m. until further orders.

(vi) If the petitioner violates any of the above conditions, it is open to the respondent police to file an application to cancel the bail granted to him.

8. This Court places on record its appreciation to Mr.Na.Manimaran, learned Legal Aid Counsel, who defended the case of the petitioner/accused. The Secretary, Tamil Nadu Legal Services Authority, Madurai Bench of Madras High Court, is directed to pay a sum of Rs.10,000/- (Rupees ten thousand only) towards remuneration to the Legal Aid Counsel.

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To

1. The Principal Special Court for Exclusive
Trial of Cases under POCSO Act,
Thanjavur District.
2. The Superintendent,
Central Prison,
Trichy.
3. The Inspector of Police,
Orathanadu Police Station,
Thanjavur District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
5. The Secretary,
Tamil Nadu Legal Services Authority,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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