



Crl.MP(MD) No.17307 of 2023 in
Crl.A(MD) No.377 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :24.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.MP(MD) No.17307 of 2023

in

Crl.A(MD) No.377 of 2023

Madasamy

... Petitioner

Vs

The State of Tamilnadu,
Rep. by the Inspector of Police,
Vathirairuppu Police Station,
Virudhunagar District.
Crime No.339 of 2018

... Respondent

Prayer :- This Criminal Miscellaneous Petition is filed under Section 430(1) of BNSS, 2023 to suspend the sentence imposed on the petitioner in Sp.S.C.No.6 of 2019, on the file of the Special Court for POCSO Act cases, Virudhunagar District at Srivilliputhur and enlarged him on bail pending disposal of the criminal appeal.

For Petitioner : Mr.G.Karuppasamy Pandiyan
For Respondent : Mr.S.Prakash
Government Advocate (Crl.side)



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ORDER

The petitioner is the sole accused in Spl.SC.No.6 of 2019, on the file of the Special Court for POCSO Act cases, Virudhunagar District at Srivilliputhur. He was tried for the offence under Section 363 IPC r/w Section 5(1) r/w 6 of POCSO Act, 2012 that he has taken the victim girl to Coimbatore, stayed there for 16 days and without her consent, he has committed penetrative sexual assault . The trial Court has found the petitioner guilty, convicted and sentenced as under:-

Sl.No	Sections	Punishment	Fine amount	Default
1.	363 IPC	1 year Rigorous imprisonment	Rs.1000/-	3 months simple imprisonment
2.	5(1)r/w 6 of POCSO Act, 2012	10 years Rigorous imprisonment	Rs.1000/-	1 year simple imprisonment

As against the conviction and sentence imposed by the trial Court in Spl.SC No.6 of 2019, dated 21.11.2022, the petitioner has filed a Criminal Appeal in Crl.A(MD) No.377 of 2023 and the same was admitted by this Court, by order, dated 28.04.2023. Along with the appeal, the petitioner has also moved this application to suspend the



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sentence imposed on him by the trial Court.

2.The learned counsel appearing for the petitioner submits that the prosecution has been laid based on the evidence of PW 2/victim girl. The trial Court has also convicted the petitioner by relying upon the evidence of PW 2 and that the hymen of the victim is not intact. Apart from the evidence of PW2, there is no other evidence or incriminating material to prove that the petitioner took the victim girl and subjected her to physical relationship. The learned counsel further submits that the case was registered on the complaint of the father of the victim girl that she was found missing on 27.10.2018. Thereafter, she was rescued from a bus stand. According to the learned counsel, the victim girl has stated that the petitioner has taken her to Coimbatore, where, they lived together as husband and wife for some time and at that time, the petitioner had physical relationship with her. The learned counsel further submits that the evidence of the victim girl is not reliable as she has been rescued from the bus stand and not from



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this petitioner. Before examining the victim girl, no voir dire test to the credibility of the victim evidence has been conducted by the trial Court. The petitioner is in jail for more than three years and four months. Therefore, he may be considered for grant of suspension of sentence.

3.The learned Government Advocate (Crl.side) appearing for the respondent submits that this petitioner, who is a relative of the victim girl has induced her, abducted and also sexually abused her. Therefore, the trial Court has charged him for the offence under Section 363 IPC5(1)r/w 6 of POCSO Act, 2012, based on the evidence of the PW 2/the victim girl. and PW3/ the doctor, who examined the victim child. According to him, the Doctor has found that the hymen was not intact. Therefore, according to the learned Government Advocate, the victim girl was subjected to sexual assault and hence, he prays for dismissal of this petition.



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4.This Court considered the rival submissions made and also perused the materials placed on record.

5.Admittedly, the victim was rescued from a bus stand and not from this petitioner. Even as per the statement of the victim girl, she was taken by the petitioner on 27.10.2018 to Coimbatore, they lived together as husband and wife for a period of 16 days in a Mill. Thereafter, she was let down at Madurai. Apart from the evidence of PW 2/the victim girl, there is no other evidence linking this petitioner with the victim.

6.The petitioner has raised certain arguable points, which can be considered only during the final hearing of the criminal appeal. However the appeal could not be taken up immediately, for want of time. In view of the above and considering the period of incarceration, this Court is inclined to suspend the sentence imposed on the petitioner.



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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 a sum of Rs.25,000/- (Rupees Twenty Five Thousand) with two sureties each for a like sum to the satisfaction of the Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur.
- ii. The petitioner shall stay at Trichy and report before the Inspector of Police, Uppliyapuram Police Station, Trichy daily at 10.30 a.m, until further orders.
- iii. The petitioner shall file an affidavit of undertaking before the concerned police station that he will not visit the scene Village pending the appeal.



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iv. 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.

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Index : Yes/No
Internet : Yes/No
vrn

To

1. The Special Court for POCSO Act cases,
Virudhunagar District at Srivilliputhur.
2. The Inspector of Police,
Vathirairuppu Police Station,
Virudhunagar District.
3. The Superintendent,
Central Prison,
Madurai.
4. The Inspector of Police,
Uppliyapuram Police Station,
Trichy.



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B.PUGALENDHI, J.,

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