



CRL MP(MD). No.18173/2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 19.02.2026

CORAM

**THE HONOURABLE MRS. JUSTICE N.MALA**

**CRL MP(MD). No.18173/2025**  
**in**  
**CRL A(MD)No.1267/2025**

Arumugam

... Petitioner  
/ A1

Vs

State of Tamil Nadu rep.by  
The Inspector of Police  
Batlagundu Police Station  
Dindigul District.  
Cr.No.257/2008

... Respondent

PRAYER :- Petition filed u/s.430[i] of BNSS to suspend the sentence imposed on the petitioner by judgment passed in SC.No.97/2018 dated 12.12.2024, on the file of the learned Sessions Judge, Fast Track Mahila Court, Dindigul and enlarge the petitioner on bail, pending disposal of the above appeal.

For Petitioner : Mr.A.Vignesh

For Respondent : Mr.K.Sanjai Gandhi, GA[Crl.Side]



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CRL MP(MD). No.18173/2025

## **ORDER**

This Criminal Miscellaneous Petition has been filed by the petitioner, to suspend the sentence imposed by the learned Sessions Judge, Fast Track Mahila Court, Dindigul, in SC.No.97/2018, dated 12.12.2024, and enlarge the petitioner on bail pending the disposal of the appeal.

2.The case of the prosecution in brief, is that on 01.05.2008, the victim girl was taken to one Pappammal's house with the help of A1 to A3. There, the petitioner, who is arraigned as A1, had penetrative sexual intercourse with the victim. On 18.05.2008, the victim was taken by A2 and A3 to Arulmighu Meenakshi Sokkanadhar Temple at Tirumangalam, where, the petitioner married the victim. During the period, they lived together in the same house and the petitioner repeatedly perpetrated the sexual assault on the victim. Meanwhile, the father of the victim lodged a complaint against the petitioner and others for kidnapping his minor daughter. Based on the complaint, an FIR in Crime No.257/2008, was registered for the offence u/s.363 of IPC. After completion of investigation, an Alteration Report was filed by altering the offences to one u/s.366 and 376 of IPC. Thereafter, the case was taken up on file by

2/8



CRL MP(MD). No.18173/2025

the learned II Sessions Judge, Fast Track Mahila Court, Dindigul.

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3. Before the Trial Court, on the side of the prosecution, 15 witnesses were examined as P.W.1 to P.W.15 and 28 documents were marked as Ex.P.1 to Ex.P.28. Four material objects were produced. On the side of the accused, the petitioner examined himself as DW1; however, no document was marked.

4. The Trial Court, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, passed the impugned judgment dated 12.12.2024, convicting and sentencing the petitioner as follows:

| S.No. | Conviction u/s | Sentence                                                                             |
|-------|----------------|--------------------------------------------------------------------------------------|
| 1     | 366 of IPC     | To undergo 5 years RI, with a fine of Rs. 5,000/-, in default to undergo 6 months SI |
| 2     | 376 of IPC     | To undergo 7 years RI, with a fine of Rs. 5,000/-, in default to undergo 6 months SI |

5. Challenging the above said conviction and sentence, the appellant has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.



CRL MP(MD). No.18173/2025

6.The respondent filed a counter affidavit narrating the facts leading to the conviction and sentencing of the petitioner. The respondent submitted that the Trial Court had properly appreciated the entire evidence on record and categorically found that the prosecution had proved its case beyond reasonable doubt. The respondent further stated that there was no apparent error in the judgment of the Trial Court necessitating interference by this Court and no case was made out by the petitioner for grant of suspension of sentence.

7.The learned counsel appearing for the petitioner submitted that there was no concrete proof as to the age of the victim. The learned counsel submitted that before the Trial Court, no School Certificate or Birth Certificate of the victim was filed to establish the age of the victim. The learned counsel further submitted that based on the statement of the victim, the Trial Court found that the age of the victim was only 14 years at the time of occurrence. The learned counsel submitted that the only documentary proof regarding the age of the victim was the Ossification Report, marked as Ex.P10. The learned counsel further submitted that even in Ex.P10, the age of the victim was recorded as between 17 to 18 years. The learned counsel submitted that it is settled proposition of law



CRL MP(MD). No.18173/2025

that two years could to be added to the age determined under Ex.P10.

The learned counsel submitted that there are various inconsistencies and contradictions in the testimonies of the prosecution witnesses, which would clearly establish that the prosecution has failed to prove the guilt of the petitioner beyond reasonable doubt.

8.The learned Additional Public Prosecutor appearing for the State reiterated the submissions made in the counter affidavit and submitted that the Trial Court had properly appreciated the evidence on record and there was no perversity in the findings of the Trial Court warranting interference by this Court. The learned Additional Public Prosecutor, further submitted that the petition lacks merit and the points raised by the petitioner, are matters best left to be considered at the time of final disposal of the criminal appeal and hence, prayed for the dismissal of the petition.

9.Heard both sides and perused the materials available on record.

10.In the absence of any documentary proof such as School records or Birth Certificate, the Trial Court determined the age of the victim solely on the basis of the oral assertions of the victim and her father, without properly applying the legal principles governing the



CRL MP(MD). No.18173/2025

Ossification Report. This Court finds that an arguable ground is made out in the appeal which may enure to the benefit of the petitioner. Further, no explanation has been offered by the prosecution for non-production of the victim's statement under Section 164 of Cr.PC, and such omission casts a doubt on the prosecution case. Further, the appeal is not likely to be heard in the proximate future.

11.Under the aforesaid facts and circumstances of this case, this Court is inclined to grant suspension of sentence to the petitioner. However, the observations made herein will be restricted to this application and shall not affect either party in the final disposal of the case.

12.Accordingly, the Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal with the following directions:

(i)the petitioner is directed to pay the fine amount of Rs.10,000/- within a period of two weeks from today, if not already paid ;

(ii)Upon payment of the fine amount, the petitioner shall be enlarged on bail on condition that she shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a



CRL MP(MD). No.18173/2025

like sum, within a period of ten days from the date of receipt of a copy of this order, to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Dindigul District ;

(iii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iv) The petitioner shall appear before the trial Court **daily** at 10.30 a.m., pending disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C (355 of BNSS) and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

**19.02.2026**

AP

To

1. The The Inspector of Police  
Batlagundu Police Station  
Dindigul District.

2. The Sessions Judge,  
Fast Track Mahila Court, Dindigul.

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

7/8



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CRL MP(MD). No.18173/2025

**N.MALA, J.**

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CRL MP(MD) No.18173/2025  
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