



Crl.OP(MD)No.22660 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.02.2026

PRONOUNCED ON : 01.06.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.22660 of 2025

and

CrI.M.P.(MD)No.19601 of 2025

Manojkumar

... Petitioner/Accused

Vs.

1. The State of Tamilnadu,
Rep. by the Inspector of Police,
AWPS-Palani,
Dindigul District.
Crime No.2 of 2025

..... Respondent / Complainant

2. Muthammal

..... Respondent /
Defacto Complainant

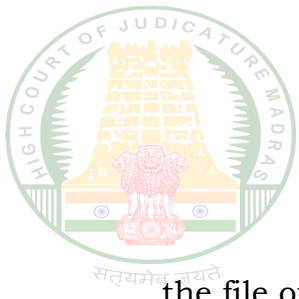
3. The District Child Protection Officer,
Dindigul.

- 4.The District Collector,
Dindigul.

..... Respondents

(Respondents 3 and 4 are suo-motu impleaded as the respondents 3 and 4 vide Court order dated 2026 made in Crl.O.P.(MD)No.22660 of 2025)

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records in Spl.S.C. No.167 of 2025 on



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the file of the learned Special Court for Exclusive Trial of cases under POCSO Act, Dindigul and quash the same.

For Petitioners : Mr.D.Venkatesh
For R-1 : Mr.B.Thanga Aravindh,
Government Advocate (Crl. side)

ORDER

Prologue:

The present Criminal Original Petition invokes the inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The said jurisdiction, though extraordinary and to be exercised with circumspection, is preserved in the statute to ensure that the process of Court does not become an instrument of oppression, and that the ends of justice are not defeated by a mechanical continuation of criminal proceedings.

2. The case on hand presents a peculiar and sensitive factual situation. The petitioner, who faces prosecution for offences under the Bharatiya Nyaya Sanhita, 2023, the Prohibition of Child Marriage Act, 2006, and the Protection of Children from Sexual Offences Act, 2012, was himself admittedly a child on the date of the alleged occurrence. The victim girl, who has now attained majority, has also



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filed an affidavit before this Court, stating that she and the petitioner were in love, that they have been living together, that a female child was born to them, and that she does not desire to proceed with the criminal prosecution.

3. This Court is therefore called upon to examine not merely whether the allegations disclose the ingredients of the penal provisions invoked, but more fundamentally whether the continuation of prosecution before the learned Special Court, dehors the mandatory scheme of the Juvenile Justice (Care and Protection of Children) Act, 2015, is legally sustainable.

Facts and case of the prosecution:

4. The prosecution case, in brief, is that on receipt of information through Child Line No.1098, the second respondent conducted an enquiry and came to know that the petitioner and the victim girl, namely, XXXXXXXX, were in love with each other.

5. It is alleged that on 14.05.2024, the petitioner and the victim girl got married at Perumal Temple, near Pushpathur, and



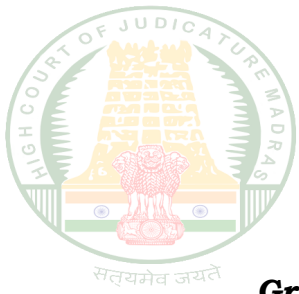
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thereafter lived together as husband and wife at Nallur. During enquiry, it was further revealed that the victim girl was about eight months pregnant. Since the victim was below eighteen years of age at the relevant point of time, a complaint was lodged.

6. On the basis of the said complaint, the first respondent registered a case in Crime No.2 of 2025 for the offences punishable under Section 9 of the Prohibition of Child Marriage Act, 2006, and Sections 5(1), 5(j)(ii) and 6 of the POCSO Act, 2012.

7. Upon completion of investigation, the first respondent filed a final report against the petitioner for the offences punishable under Section 87 of the Bharatiya Nyaya Sanhita, 2023, corresponding to Section 366 IPC, Section 9 of the Prohibition of Child Marriage Act, 2006, and Sections 5(1) and 5(j)(ii) read with Section 6 of the POCSO Act. The said final report was taken on file as Spl.S.C.No.167 of 2025 by the learned Special Court for Exclusive Trial of Cases under the POCSO Act, Dindigul.



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Grounds for quash:

8. The principal ground urged by the petitioner is that he was also a child on the date of the alleged occurrence. His date of birth is stated to be 26.04.2007. The alleged occurrence took place on 14.05.2024. Therefore, on the date of occurrence, the petitioner had not completed eighteen years of age.

9. It is contended that when the petitioner was admittedly a child in conflict with law, no final report could have been filed against him before the Special Court treating him as an adult accused. The petitioner further contends that the statements recorded during investigation, particularly the statement of the victim girl, disclose that the relationship was one of mutual affection and that both the petitioner and the victim had voluntarily lived together.

10. It is also submitted that the victim has since attained majority, that a female child was born to them on 18.02.2025, and that both families have decided to perform a legally valid marriage after the petitioner attains twenty-one years of age. The petitioner



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therefore submits that continuation of the prosecution in Spl.S.C.No. 167 of 2025 would amount to abuse of process of law and would defeat the reformatory object of the juvenile justice regime.

Affidavit of the victim:

11. The victim girl, who has now attained majority, has filed an affidavit before this Court. In the said affidavit, she has stated that she is LW-2/victim in Spl.S.C.No.167 of 2025 and that she is well acquainted with the facts of the case. She has stated that she and the petitioner were in love with each other and that on 14.05.2024, they got married at Perumal Temple near Pushpathur. She has further stated that thereafter both of them lived together as husband and wife at Nallur.

12. She has also stated that a female child was born to them on 18.02.2025. The victim has specifically stated that her date of birth is 22.03.2007 and the petitioner's date of birth is 26.04.2007. She has further stated that both of them have now completed eighteen years of age, but the petitioner has not yet completed

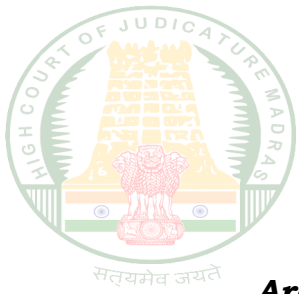


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twenty-one years, and therefore they are unable to perform and register a legally valid marriage at present.

13. The victim has stated that she is living with the petitioner and their child, and that she does not wish to proceed further with the criminal prosecution. She has also stated that both families have decided to perform their marriage after the petitioner attains the legally permissible age.

14. This Court is conscious that in POCSO offences, the consent of the victim is legally immaterial when the victim was a child at the relevant time. However, the affidavit of the victim assumes relevance in the present case, not for treating consent as a defence to a POCSO charge, but for appreciating the peculiar factual matrix, namely, that both the petitioner and the victim were children at the time of the occurrence and that the petitioner's prosecution as an adult before the Special Court is contrary to the mandatory juvenile justice framework.

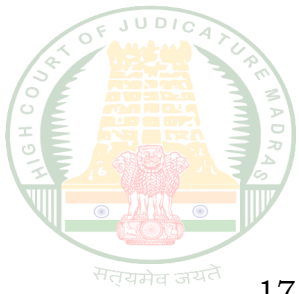


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Arguments on either side:

15. The learned counsel for the petitioner submitted that the final report itself is legally unsustainable, as the petitioner was a juvenile on the date of the alleged occurrence. It was further submitted that the learned Special Court for Exclusive Trial of Cases under the POCSO Act, 2012, could not have proceeded with the case as against the petitioner without first determining his juvenility and without following the procedure contemplated under the Juvenile Justice (Care and Protection of Children) Act, 2015.

16. The learned counsel contended that even assuming the allegations are taken at their face value, the petitioner could only have been dealt with as a child in conflict with law and not as an adult accused. It was also argued that the victim has now attained majority and has filed an affidavit stating that she does not wish to continue the prosecution, and that both are living together with their child. Therefore, according to the petitioner, continuation of the proceedings in Spl.S.C.No.167 of 2025 would be oppressive, illegal and an abuse of the process of Court.



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17. The learned Government Advocate (Criminal Side) appearing for the respondents submitted that the allegations in the final report disclose serious offences under the POCSO Act, 2012, and the Prohibition of Child Marriage Act. It was submitted that the consent of the victim is immaterial under the POCSO Act, 2012, and that the mere filing of an affidavit by the victim cannot by itself be a ground to quash a prosecution involving a minor victim.

18. However, the learned Government Advocate fairly submitted that the age of the petitioner on the date of the alleged occurrence is a matter which has to be examined in accordance with the Juvenile Justice Act, 2015.

19. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for consideration:

20. The point that arises for consideration is “whether the continuation of proceedings in Spl.S.C.No.167 of 2025 on the file of the learned Special Court for Exclusive Trial of Cases under the



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POCSO Act, Dindigul, as against the petitioner, who was admittedly a child on the date of the alleged occurrence, is legally sustainable?”

Analysis:

21. The first and foremost circumstance which goes to the root of the matter is the age of the petitioner. The petitioner’s date of birth is stated to be 26.04.2007. The alleged occurrence is dated 14.05.2024. Thus, on the date of occurrence, the petitioner had not completed eighteen years of age.

22. The Juvenile Justice (Care and Protection of Children) Act, 2015, is a special legislation enacted to deal with children in conflict with law through a child-sensitive, reformatory and rehabilitative process. Once the person alleged to have committed an offence was below eighteen years of age on the date of occurrence, the procedure under the Juvenile Justice Act becomes mandatory.

23. Section 9 of the Juvenile Justice Act, 2015, contemplates the procedure to be followed by a Magistrate who has not been empowered under the Act. If any Court is of the opinion that the



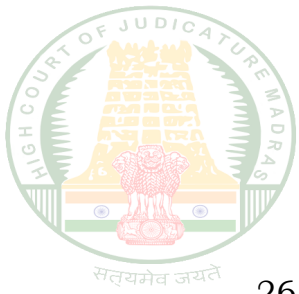
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person brought before it is a child, such Court shall record such opinion and forward the child immediately to the Board having jurisdiction.

24. The statutory command is clear. A child in conflict with law cannot be tried as an adult accused in the ordinary criminal process, except in the manner specifically provided under the Juvenile Justice Act, 2015. In the present case, the final report has been filed and the case has been taken cognizance of as Spl.S.C.No.167 of 2025 before the learned Special Court for Exclusive Trial of Cases under the POCSO Act, Dindigul. This has been done notwithstanding the fact that the petitioner was a child on the date of occurrence.

25. The offence under Section 87 of the BNS, corresponding to Section 366 IPC, alleges kidnapping, abduction or inducing a woman to compel her marriage or illicit intercourse. The factual materials placed before this Court, including the victim's statement and her subsequent affidavit, disclose that the petitioner and the victim were in a relationship and had voluntarily lived together.

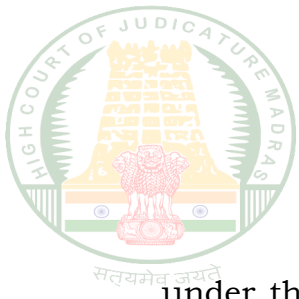


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26. Section 9 of the Prohibition of Child Marriage Act, 2006, deals with punishment for a male adult above eighteen years of age contracting a child marriage. On the admitted dates, the petitioner had not completed eighteen years on 14.05.2024. Therefore, the very invocation of Section 9 of the Prohibition of Child Marriage Act, 2012, against the petitioner requires serious legal scrutiny.

27. Sections 5(1), 5(j)(ii) and 6 of the POCSO Act, 2012, relate to aggravated penetrative sexual assault and its punishment. This Court does not dilute the rigour of POCSO law, nor does it hold that consent of a child victim can legalise an act prohibited by the statute. However, when the alleged offender himself was a child at the relevant point of time, the law insists that he must be dealt with through the Juvenile Justice Board and not by directly subjecting him to trial as an adult before the Special Court.

28. The distinction is vital. The question before this Court is not whether the allegations are serious. The question is whether a person who was a child on the date of occurrence can be prosecuted as an adult before the Special Court without following the procedure



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under the Juvenile Justice Act, 2015. The answer must necessarily be in the negative.

29. The affidavit filed by the victim, who has now attained majority, further reveals that she is living with the petitioner and their female child born on 18.02.2025. She has also stated that both families have agreed to perform a valid marriage after the petitioner attains twenty-one years of age.

30. This Court is mindful that emotional settlements or later affidavits cannot ordinarily erase serious statutory offences, particularly under the POCSO Act, 2012. Nevertheless, in the peculiar facts of this case, the affidavit reinforces the admitted position that the matter arose out of an adolescent relationship between two children and that the continuation of the prosecution as an adult criminal trial would not serve the ends of justice.

31. The criminal justice system must be stern where exploitation, coercion, trafficking or predatory conduct is alleged. Equally, it must be sensitive where the record discloses an



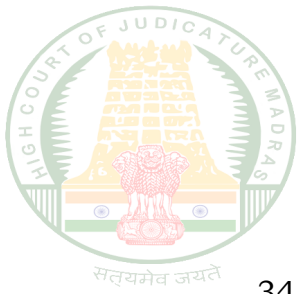
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adolescent relationship between two children, one of whom is sought to be prosecuted in a manner contrary to the Juvenile Justice Act, 2015. The final report, insofar as it has resulted in the petitioner being placed before the learned Special Court as an adult accused in Spl.S.C.No.167 of 2025, suffers from a fundamental jurisdictional illegality. Such continuation would amount to abuse of process of law.

32. This Court therefore holds that the proceedings in Spl.S.C.No.167 of 2025, on the file of the learned Special Court for Exclusive Trial of Cases under the POCSO Act, Dindigul, cannot be permitted to continue as against the petitioner in the present form.

33. For the reasons stated above, this Criminal Original Petition is allowed. The proceedings in Spl.S.C.No.167 of 2025 on the file of the learned Special Court for Exclusive Trial of Cases under the POCSO Act, Dindigul, are hereby quashed insofar as the petitioner is concerned. Consequently, connected miscellaneous petition is closed.



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34. It is made clear that this order is passed in view of the admitted juvenility of the petitioner on the date of occurrence, the illegality in subjecting him to prosecution as an adult before the Special Court, and the peculiar facts placed before this Court, including the affidavit filed by the victim who has now attained majority. It is further made clear that this order shall not preclude the competent authorities from taking any lawful welfare, protective or rehabilitative measures, if so required, for the victim and the child born to her, strictly in accordance with law.

Victim rehabilitation and protective plan:

35. Since the victim, the petitioner and the child born to them stand at a delicate intersection of child protection, adolescent autonomy, motherhood, parenthood and social vulnerability, this Court deems it appropriate to issue a child-rights oriented rehabilitation plan.

36. This plan shall not be construed as recognition, validation or approval of child marriage. It is only a protective and rehabilitative arrangement to ensure that the victim, the petitioner and the child



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are not left in a legal vacuum till the petitioner attains the legally permissible age for marriage.

37. The District Child Protection Officer, Dindigul, shall be the Nodal Officer for implementation of this plan. The Child Welfare Committee, Dindigul, shall conduct a confidential welfare assessment of the victim and the child within two weeks from the date of receipt of a copy this order. The CWC, Dindigul, shall ascertain the voluntary wishes of the victim, her safety, health condition, educational status, emotional well-being and the welfare of the infant child.

38. The CWC, Dindigul, shall not compel institutionalisation unless there is a clear finding of neglect, coercion, danger, abandonment or inability to ensure safety in the present living arrangement. The District Child Protection Unit shall prepare an Individual Care Plan for the victim and the child, and a separate rehabilitative supervision plan for the petitioner, who was a child in conflict with law on the date of occurrence.



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39. The said plan shall include:

- (i) safe residence;
- (ii) maternal and child healthcare;
- (iii) nutrition support;
- (iv) immunisation of the child;
- (v) counselling;
- (vi) educational or vocational continuation;
- (vii) access to legal aid;
- (viii) birth registration and identity documents for the child;
- (ix) linkage with government welfare schemes; and
- (x) periodic review.

40. The victim shall be provided access to medical care through the nearest Government Hospital / Primary Health Centre, including post-natal care, reproductive health counselling, anaemia screening, nutritional supplementation and psychological counselling.



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41. The infant child shall be ensured birth registration, Aadhaar enrolment as per law, immunisation, paediatric care, nutrition support and access to all welfare schemes available to children. The petitioner, being aged eighteen years, shall be referred for educational continuation, skill training or livelihood counselling through the District Skill Development authorities or other appropriate Government schemes.

42. The victim shall also be offered educational continuation or vocational support, without compelling her to choose between motherhood and her right to development.

43. The District Legal Services Authority, Dindigul, shall provide legal aid and counselling to both the victim and the petitioner regarding their rights, lawful options, parental responsibilities and the legal position that a valid marriage can be performed only upon fulfilment of the statutory age requirement.

44. Both families shall be counselled by the District Child Protection Unit to ensure that there is no coercion, stigma,



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abandonment, forced separation, violence or unlawful pressure upon the victim, the petitioner or the child.

45. A trained counsellor or support person shall be nominated by the CWC, Dindigul, to interact with the victim at periodic intervals and to submit confidential welfare reports to the CWC, Dindigul.

46. The privacy and identity of the victim and the child shall be strictly protected. No authority shall disclose their names, photographs, address or identifying particulars except for lawful welfare purposes.

47. The Nodal Officer shall file a confidential compliance report before this Court , once in three months till the petitioner attains the legally permissible age for marriage, or until further orders, whichever is earlier.

48. This protective arrangement is founded upon the principles of best interests of the child, survival and development, dignity, non-discrimination and participation, which form the core of



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international child rights jurisprudence under the UN Convention on the Rights of the Child. The Convention recognises childhood as a protected period and requires States to secure the child's survival, development, care and protection.

49. This plan is also consistent with the domestic child protection framework under the Juvenile Justice Act, 2015, which recognises rehabilitation and social reintegration, and the preparation of individual care plans for children in need of care and protection and children in conflict with law.

50. The object of this direction is not to dilute the mandate of the POCSO Act, 2012, or the Prohibition of Child Marriage Act, 2006, but to fill the protective silence that may arise after quashment, so that the young mother, the young father and the infant child are not abandoned to social uncertainty.

51. The authorities shall act with sensitivity, confidentiality and child-centric concern, bearing in mind that the purpose of law is



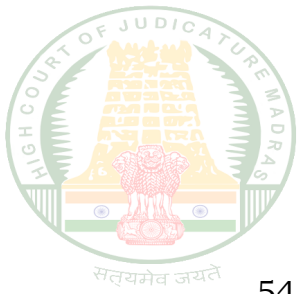
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not merely to punish past illegality, but also to prevent future vulnerability.

Epilogue:

52. Law, when dealing with children, cannot afford to be blind to age, vulnerability and reformative possibility. A statute meant to protect children cannot be applied in a manner that obliterates the statutory protection available to another child who is alleged to be in conflict with law.

53. The majesty of criminal law lies not merely in punishment, but in proportion, procedure and justice. Where the procedure mandated for a child in conflict with law is bypassed, the prosecution loses its legal foundation. In the peculiar facts of this case, continuation of the proceedings would neither advance the object of the POCSO Act, 2012, nor honour the mandate of the Juvenile Justice Act. It would only perpetuate a prosecution in a forum which could not have proceeded against the petitioner as an adult accused.



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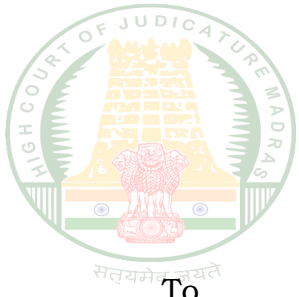
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54. The District Child Protection Officer, Dindigul and the District Collector, Dindugal are suo-motu impleaded as 3rd and 4th respondents. Registry is directed to effect the necessary amendments in the causelist.

55. The 4th respondent is directed to implement the “VICTIM REHABILITATION AND PROTECTIVE PLAN” elaborated in paras 34 to 50 supra through the 3rd respondent and file a report at the first instance within 3 months from the date of receipt of copy of this order. It is made clear that the VICTIM REHABILITATION AND PROTECTIVE PLAN would be followed up from time to time , till the petitioner attains the age of twenty one years. Periodical progress report to be filed before this Court from time to time by the 4th respondent once in every three months.

01.06.2026

NCC : Yes / No
Index : Yes / No
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To
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- 1.The Judge,
Special Court for Exclusive Trial of
cases under POCSO Act,
Dindigul.
- 2.The Inspector of Police,
AWPS-Palani,
Dindigul District.
3. The District Child Protection Officer,
Dindigul.
- 4.The District Collector,
Dindigul.
- 5.The Child Welfare Committee,
Dindigul.
- 6.The District Child Protection Officer,
Dindigul.
- 7.The District Legal Services Authority,
Dindigul.
8. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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