

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : .2026

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

Crl.MP(MD)No.12468 of 2025

in

Crl.A(MD)No.405 of 2025

Rajkumar

: Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by the Deputy Superintendent of Police,
Andipatti Sub Division,
G.Vilakku Police Station,
Theni District.
Cr.No.240/2019

2.Revathi

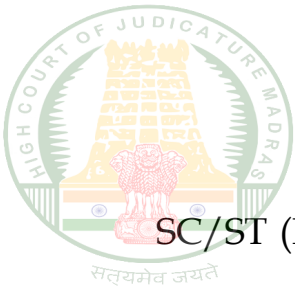
3.The District Collector,
Theni.

4.The Secretary to the Government,
Home Department, Chennai.

: Respondents

[R.3, R.4 *suo-motu* impleaded vide order dated .2026]

PRAYER: Petition filed under Section 430 BNSS to suspend the sentence of imprisonment imposed by the Special Court for trial of cases under



SC/ST (POA) Act, Theni, in Spl.SC.no.183 of 2020, dated 27.02.2025 and

enlarge the petitioner on bail.

For Petitioner : Mr.S.Ramanathan

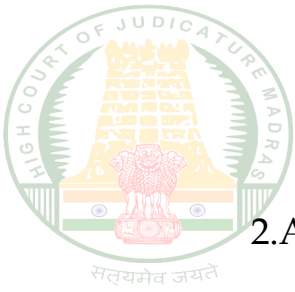
For Respondents: Mr.A.S.Abul Kalaam Azad,
Government Advocate (Crl. Side)
for R.1, R.3, R.4

Mr.R.Karunanidhi for R.2

ORDER

The petitioner is an accused and he was tried in Spl.SC.No.183 of 2020, for the offences under Section 376 IPC r/w 3(2)(v), 3(1)(w)(i) of SC/ST (PoA) Act, by the learned Sessions Judge, Special Court for Trial of cases under SC/ST (PoA) Act, Theni. In conclusion of the trial, he was found guilty for the offences under Section 376 r/w 511 IPC and Section 3(1)(w)(i) of SC/ST (PoA) Act and was convicted and sentenced as under:-

Sl.No	Sections	Punishment	Fine amount	Default
1.	376 r/w 511 IPC	Five years Rigorous imprisonment	Rs.5,000/-	One year Rigorous imprisonment
2.	3(1)(w)(i) of SC/ST Act	Six months Rigorous imprisonment	Rs.2,000/-	One month Rigorous imprisonment



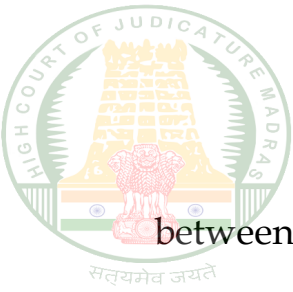
2.As against the conviction and sentence imposed by the trial

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Court in Spl.S.C.No.183 of 2020, dated 27.02.2025, the petitioner has filed a Criminal Appeal in Crl.A(MD) No.405 of 2025 and the same was admitted by this Court on 01.04.2025. The petitioner has also moved this application to suspend the sentence imposed on him by the trial Court.

3.The case of the prosecution is that when the victim, who belongs to Scheduled Caste community, has went to attend her natural call in the morning of 04.11.2019 at about 6.20 am, the petitioner punched the victim and pushed her to the floor and attempted to commit rape on her. A complaint was lodged immediately regarding the occurrence and the victim girl was also subjected to medical examination on the same day at about 9.00 a.m.

4.In the application filed to suspend the sentence, the learned Counsel appearing for the petitioner has taken a specific stand that the allegation of attempt to rape is false and that the victim girl has not suffered any injury and therefore, according to him, the allegations are not probable. He has also taken a ground that there is a personal dispute



between PW1's son and the petitioner and hence, the case has been

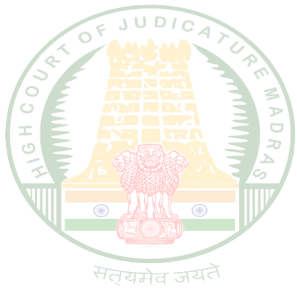
WEB foisted against the petitioner.

5.In response, the learned Government Advocate (Crl.side) appearing for the respondent police submits that the victim girl suffered four injuries and it is reflected in the Accident Register dated 04.11.2019. A copy of the Accident Register has also been placed before this Court and it appears that the Doctor/P.W.12, who examined the victim girl, has recorded that the victim has suffered the following injuries in the accident register:

- "1.Abrasion 1 x 1 c.m over lowerlip*
- 2.Nail marks over ant aspect of neck*
- 3.Bleeding Per Veginam*
- 4.Contusion 0.5 x 0.5 c.m over hard palate"*

However, the Accident Register has not been marked before the trial Court and therefore, the learned Counsel for the petitioner has taken a plea that the victim girl did not suffer with any injury.

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



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7. The petitioner has been convicted for the offences under Section 376 r/w 511 IPC and Section 3(1)(w)(i) of SC/ST (PoA) Act. The victim belongs to the Scheduled Caste community and it is alleged that she went to attend her natural call in the morning hours on 04.11.2019 at about 06.30 am. The petitioner is said to have attempted to commit rape on the victim girl after punching her and pushing her to the floor. The complaint regarding the same was lodged immediately and she was taken to the Government Hospital on the same day at about 09.00 am. The Doctor [PW12], who attended the victim, has recorded the injuries [Abrasion, Nail marks, Bleeding, Contusion] in the Accident Register dated 04.11.2019 and the same is placed before this court. However, the Accident Register was not marked before the trial Court and in fact, no questions were put forth regarding the same during the examination of the Doctor/ PW12, by the prosecution.

8. In *Angana vs. State of Rajasthan [(2009) 3 SCC 767]*, the Hon'ble Supreme Court has held that the discretion to suspend the sentence is to be exercised judiciously depending on the facts and circumstances of



each case, the basis of nature of the offence and manner in which

occurrence had taken place. Considering the serious nature of allegations as against a woman from the oppressed community and also the materials available against the petitioner, **this Court is not inclined to entertain this application for suspension of sentence.**

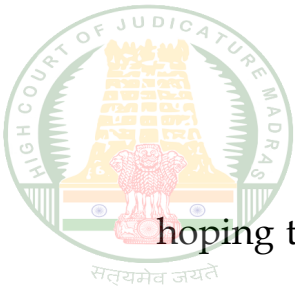
9.This petitioner has previously filed an application seeking suspension of his sentence in Crl.MP(MD)No.4281 of 2025 and the same was dismissed by this Court vide order dated 23.04.2025. Considering the manner in which the prosecution has conducted the case before the trial court, this Court, while dismissing the earlier application, has also directed the Director of Prosecution to take appropriate action as against the concerned Special Public Prosecutor, who conducted the trial in Spl.S.C.No.183 of 2020. Pursuant to the earlier order of this Court, the Director of Prosecution has filed a report before this Court admitting the manner in which the prosecution was conducted by the concerned Public Prosecutor, who represented the case in Spl.S.C.No.183 of 2020 and stated that the concerned Prosecutor has not even raised any questions based on the Accident Register issued by the Doctor/P.W.12.



Therefore, he has made a recommendation to the Government that the

WEB said Special Public Prosecutor, who conducted trial in Spl.S.C.No.183 of 2020 in a negligent manner, may be removed from his service on 07.07.2025 and according to the Director, the Government is yet to pass orders in this regard.

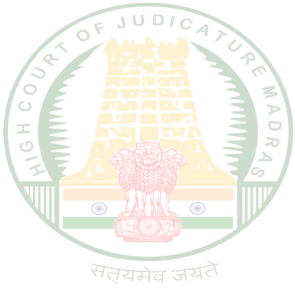
10.In primitive societies, the responsibility of protecting oneself against crime and punishing the offenders rested with the individuals. As society evolved into an organised political State governed by law, the power to investigate, prosecute and punish offences was taken away from private citizens and vested in the State. This transformation embodied the principle that crime is not only an offence against an individual but also an offence against the peace and order of society. The victims cannot punish the offenders and they place all their faith on the State which assumes a solemn duty to take up the cause of the victim. When an individual reports the commission of an offence, he is exercising his fundamental right under Article 21 of the Constitution to seek protection from the State. The obligation of the State is not an empty formality and our forefathers have framed the constitution



hoping that the state would take up the cause of the victims. Hence, the

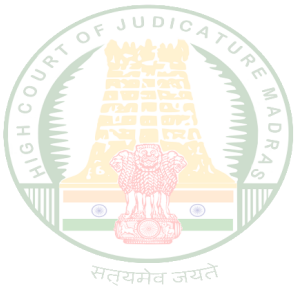
State has a duty to defend the victim by appointing efficient Government Pleaders / Law Officers.

11.It is deeply disturbing to note that the State appears to be appointing Government Pleaders / Public Prosecutors / Law Officers not on merit, but on the basis of their proximity and allegiance to the ruling dispensation. Such appointments, at times, extend even to individuals whose only apparent qualification is their involvement in menial political activities, such as affixing posters during elections. This practice strikes at the very root of professional standards expected of Law Officers. A significant number of such appointees lack the requisite competence and legal acumen to effectively conduct cases. More troubling aspect is that even after their appointment as Law Officers, there is a lack of effort in developing the necessary skills to effectively defend cases. The inevitable consequence is that litigants are left to suffer, and the administration of justice itself stands compromised.



WEB COP 12. Considering the manner in which cases are defended by political appointments, the First Bench of this Court in V.Vasanthakumar v. The Chief Secretary, Government of Tamil Nadu [W.P.No.12951 of 2017, dated 28.04.2018] has issued directions to the State Government to formulate or frame definite guidelines for the manner and criteria for the selection of Advocates to the post of Government Law Officers. It also directed that appointment of Law Officers should not be made for pursuing a political purpose or for giving some undue advantage to any section but on the basis of merit and basic qualifications.

13. However, the Secretaries to Government, who are involved in the selection process of the Law Officers, are sailing along with the Government by not identifying the right persons. This case is one such glaring example as to how the victims are defended by political appointees in a case of rape and that too, on a woman from the oppressed community.



WEB COP 14. Admittedly, in this case, the Accident Register, a crucial document, was not marked before the trial Court and the Doctor was not examined properly regarding the same by the prosecution. It is reported that the document was not available in the records and therefore, it was not marked. But the fact remains that a copy of the wound certificate is very much available in the CD file and was placed before this Court during Crl.MP(MD)No.4281 of 2025. Even thereafter the Prosecutor concerned did not take any steps to mark the Accident Register as an additional document by filing an application under Section 311 CrPC. Therefore, it appears that the Law Officer either deliberately evaded marking the document or was not equipped with the basic knowledge of conducting a criminal trial before the Sessions Court.

15. On the direction of this Court, an enquiry was contemplated and the Director of Prosecution found that there was a lapse on the part of the Law Officer concerned. The Director, in fact, recommended for removal of the Law Officer concerned on 07.07.2025. However, the Government is yet to take a decision on the same. By keeping the file



pending, the Government is in fact enabling this unfit person to continue

in the post and continue to cause injustice to other victims as well.

16.A Law Officer at the district level is being appointed on a tenure basis by the District Collector. When the appointing authority is the District Collector, it is not known as to why the matter has been referred to the Government. Presumably, the same has been done either to help the Law Officer concerned or to keep the matter under cold storage.

17.Be that as it may, considering the manner in which the Government has slept on the recommendation of the Director of Prosecutor, without taking a call on the removal of the Law Officer concerned, this Court *suo moto* impleads the District Collector, Theni and the Secretary to the Government, Home Department, Chennai, as parties to this petition.

18.Learned Government Advocate (Crl. Side) is to take notice on behalf of the newly impleaded respondents. The newly impleaded respondents are expected to take a decision on the proposal sent by the



Director of Prosecution within a period of four weeks from date without

fail.
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With the above directions, this application is dismissed.

Internet : Yes .2026
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To

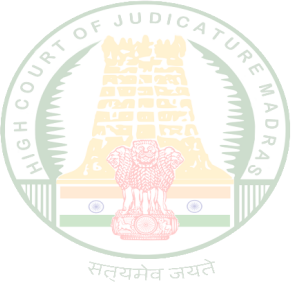
- 1.The Deputy Superintendent of Police,
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- 4.The Judge,
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CrI.M.P.(MD) No.12468 of 2025

B.PUGALENDHI, J.

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in
CrI.A(MD)No.405 of 2025**

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