



CuP(CrL.) 3/2023

**IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION**

Curative Petition (Criminal) No 3 of 2023
In
Review Petition (Criminal) No 56 of 2022
In
Special Leave Petition (Criminal) No 5650 of 2021

Sankar

...Petitioner

Versus

State of Tamil Nadu

...Respondent

ORDER

- 1 By a judgment dated 11 December 2018, the petitioner has been convicted of an offence punishable under Section 6 of the Protection of Children from Sexual Offences Act 2012, and sentenced to suffer rigorous imprisonment for a period of twenty years and to a fine of Rs 2 lakhs, in default of which he has been directed to undergo simple imprisonment for a period of five years.
- 2 The judgment has been affirmed by the High Court of Madras in appeal on 22 February 2021. The Special Leave Petition under Article 136 of the Constitution was dismissed on 13 August 2021, and the Review Petition was dismissed thereafter by this Court on 9 March 2022.
- 3 In the course of the hearing of the Curative Petition, there have been some arguments in regard to the age of the prosecutrix.

- 4 We have borne in mind the judgments of the two Benches of this Court in ***K Dhandapani vs State by the Inspector of Police***¹ and in ***Elumalai vs Inspector of Police, All Women Police Station, Vellore District, Tamil Nadu***².
- 5 In the peculiar facts and circumstances of this case, we are inclined to exercise the jurisdiction under Article 142 of the Constitution and to remit the remaining part of the sentence. In consequence, the petitioner shall be released on the sentence which has been undergone. The fine, which has been imposed by the learned trial Judge, will stand waived.
- 6 The Curative Petition is accordingly disposed of.
- 7 Pending applications, if any, stand disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Sanjiv Khanna]

.....J.
[B R Gavai]

New Delhi;
February 5, 2024
CKB

1 2022 SC Online SC 1056

2 Criminal Appeal No 674 of 2018 decided on 3 May 2018

ITEM NO.301

COURT NO.1

SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CURATIVE PETITION (Crl.) No.3/2023 In R.P.(Crl.) No.56/2022 In
S.L.P.(Crl) No.5650/2021

(Arising out of impugned final judgment and order dated 09-03-2022 in R.P.(Crl.) No.56/2022 13-08-2021 in S.L.P.(Crl) No.5650/2021 passed by the Supreme Court of India)

SANKAR

Petitioner(s)

VERSUS

THE STATE OF TAMIL NADU

Respondent(s)

(With IA No.12625/2023 - ORAL HEARING)

Date : 05-02-2024 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE B.R. GAVAI

For Petitioner(s) Mr. V. Ramasubramanian, Adv.
Mr. A. Lakshminarayanan, AOR
Mr. S.C.V. Vimal Pani, Adv.
Mr. Abbas B., Adv.

For Respondent(s) Mr. Sudharth Luthura, Sr. Adv.
Mr. D. Kumanan, AOR
Mr. Sheikh F. Kalia, Adv.
Mrs. Deepa. S, Adv.
Mr. Sheezan Hashmi, Adv.
Mr. Mihir Joshi, Adv.
Mr. Aakash Dubey, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 The Curative Petition is disposed of in terms of the signed order.
- 2 The petitioner shall be released on the sentence which has been undergone. The fine, which has been imposed by the learned trial Judge, will stand waived.
- 3 Pending applications, if any, stand disposed of.

**(CHETAN KUMAR)
A.R. -cum-P.S.**

**(SAROJ KUMARI GAUR)
Assistant Registrar**

(Signed order is placed on the file)