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CRL A No. 150 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-06-2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

CRL A No. 150 of 2018

Kesavan, Aged 43 Years,
S/o.Rajamanickam, Rajammal Nagar, Mariamman
Koil Street, Kurumbagarm, Nedungadu, Karaikal

..Appellant(s)

Vs

State Rep. By
Inspector Of Police, Nedungadu Police Station,
Karaikal. Cr.No.45 Of 2016

..Respondent(s)

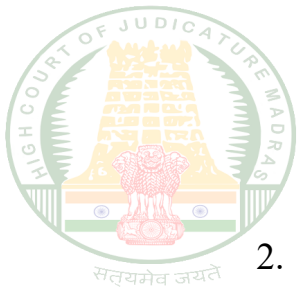
Prayer: This Criminal Appeal is filed under Section 374 (2) of Criminal Procedure Code, seeking to set aside the order of conviction passed in Spl.S.C.No.15 of 2016, dated 14.02.2018, on the file of the Sessions Judge, Karaikal and acquit the accused / appellant of the charge leveled against him.

For Appellant(s): Mr.M.Praveen Kumar

For Respondent(s): Mr.A.Alexander, Govt. Advocate
(Pondy)

JUDGMENT

The Appellant is before this Court against the judgment of the trial Court (Sessions Judge, Karaikal) dated 14.02.2018 in Spl.S.C.No.15 of 2016. By the impugned judgment, the trial Court found the Appellant guilty under Section 8 of the POCSO Act, 2012, for committing an offence under Section 7 of the said Act.



2. Before the trial Court, 15 witnesses were examined and 11 Exhibits

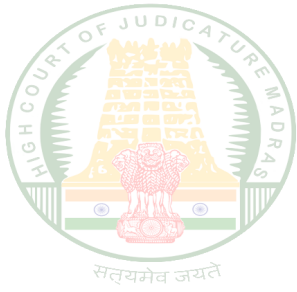
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were marked, as detailed below:

Prosecution Witnesses:

PW1	06.06.2017	Sundaramurthy
PW2	06.06.2017	Dhanalakshmi
PW3	06.06.2017	Victim
PW4	20.06.2017	Thangarasu
PW5	20.06.2017	Raman
PW6	20.06.2017	Rajkumar
PW7	04.07.2017	Devika
PW8	04.07.2017	Geetha
PW9	25.07.2017	Suthagar
PW10	25.07.2017	Jayasithra
PW11	22.08.2017	Dr.Abarna
PW12	22.08.2017	Dr.Uma Maheswari
PW13	12.09.2017	Dhanalakshmi
PW14	31.10.2017	Suresh, S.I. of Police
PW15	13.11.2017	Inian, S.I. of Police

Prosecution Exhibits:

Ex.P1	01.08.2016	Complaint of Sundaramurthy
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Ex.P2	01.08.2016	The entire crime details form
Ex.P3	--	The entire property search and seizure and seizure form of victim girl
Ex.P4	01.08.2016	Admitted portion of the Accused Confession Statement
Ex.P5	01.08.2016	Property search and seizure form (accused's lungi)
Ex.P6	02.08.2016	Certificate of potency/impotency of accused
Ex.P7	02.08.2016	Medical examination report of victim girl
Ex.P8	01.08.2016	F.I.R.No.45/2016
Ex.P9	01.08.2016	Crime detail form
Ex.P10	01.08.2016	Form 95, No.308221
Ex.P11	25.12.2004	Both certificate of Victim girl

Defence Witnesses: NIL

Defence Exhibits: NIL

Material Objects:

M.O.1 ஆரஞ்சு கலரில் கருப்பு லேசு கோடு உள்ள மற்றும்

கத்தரிப்ப, கலர், ரோஸ் கலர் மற்றும் வெள்ளை நிற பாடர் கொண்ட

டிசைன் பாவாடை ஒன்று.



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M.O.2 Take on Inspirine கேமரா படம் போட்ட Picture என்று எழுதிய

கருப்பு கலர் டாப்ஸ் ஒன்று.

M.O.3 பச்சை கலர் எலாஸ்டிக் ஜட்டி ஒன்று.

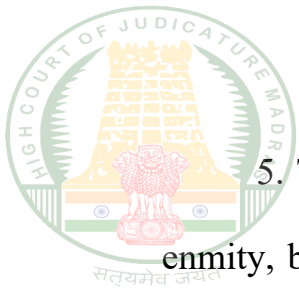
M.O.4 சிமெண்ட் கலர் நீலக்கலர் கட்டம் போட்ட கயிலியில் வெள்ளை நிற கோடு

போட்டது ஒன்று.

M.O.5 A packed box containing 1. Swab from Penis. 2. Hair form Pubis, 3. Nail.

3. The impugned judgment of the trial Court is sought to be assailed primarily on the ground that P.W.1 and P.W.2 admitted to a previous enmity between the family of the Petitioner and that of the victim. P.Ws.1 and 2 are the parents of the victim (the father and mother, respectively). P.W.3 is the victim aged about 11 years and the Appellant was aged about 42 years.

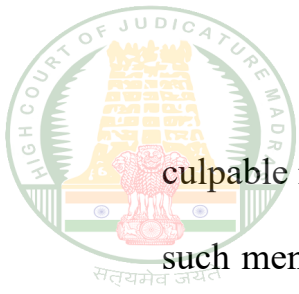
4. The prosecution has, strangely and curiously, failed to exhibit the victim's statement recorded by the learned Magistrate under Section 164 of the Cr.P.C. However, the testimony of the victim during her chief and cross-examinations remains consistent. In fact, the statements elicited during cross-examination further exposed the Appellant, providing graphic details of the alleged incident that took place on the afternoon of 31.07.2016.



5. The sole defense raised before this Court rests on the previous family enmity, based on the depositions given by P.Ws.1 and 2 on 06.06.2017. Apart from this, no other extenuating circumstances have been brought to the attention of this Court that would raise even a shadow of doubt to exonerate the Petitioner of the offense for which he has been convicted and sentenced. The witnesses examined, except for the victim, are all strangers to the offense.

6. The facts on record, as documented by the trial Court, clearly substantiate the allegation that the Petitioner fondled the private parts of the child victim and caused her physical pain. When the victim resisted, the Appellant attempted to overpower her. The victim narrated the incident to her neighbour, who in turn informed the victim's mother (P.W.2). P.W.2 subsequently narrated the incident to the victim's father (P.W.1), who lodged the complaint on the following day, culminating in the registration of FIR in Crime No.45 of 2016 (marked as Ex.P8).

7. I do not find any credible reason to disturb the findings of the trial Court. Furthermore, under Section 29 of the POCSO Act, 2012, where a person is prosecuted for committing, abetting, or attempting to commit an offense under Sections 3, 5, 7, or 9 of the Act, the Special Court shall presume that the accused committed the offense unless the contrary is proved. Similarly, as per Section 30 of the Act, the Special Court is entitled to presume the existence of a



culpable mental state, placing the burden on the accused to prove that he had no such mental state regarding the act charged. The mere admission by P.W.1 and P.W.2 regarding the existence of a private dispute between the families does not, *ipso facto*, entitle the accused to rebut or shift the burden cast upon him under Sections 29 and 30 of the POCSO Act.

8. There is no reason for this Court to disbelieve the deposition of the victim which has been consistent all along in view of the judgment of the Hon'ble Supreme Court in ***Ganesan Vs. State Rep.by its Inspector of Police***, reported in *AIR 2020 SC 5019 : (2020) 10 SCC 573*. Under these circumstances, this Criminal Appeal is liable to be dismissed.

24-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

GBI

To

1.The Inspector Of Police,
Nedungadu Police Station, Karaikal.

2.The Public Prosecutor, High Court of Madras.



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C.SARAVANAN, J.

GBI

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