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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-02-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL A No.306 of 2023

Parasuraman

S/o.Thangamuthu,

Mariyamman Koil Street,

Theviyanthal Village,

Ulunthurpet Taluk,

Villupuram District.

...Appellant/Accused

Vs

The Inspector of Police

Ulunthurpet All Women Police Station,

Villupuram District.

Cr.No.02/2022.

...Respondent/Complainant

Prayer : Criminal Appeal filed under Section 374(2) of Cr.P.C., to call for the records in Spl.SC.No.59 of 2022 on the file of Learned Special Court for Exclusive Trial of Cases Under POCSO Act, Villupuram and set aside the Judgment dated 30.09.2022 made in Spl.SC.No.59/2022.

For Appellant:

Mr.P.Muthamizhselvakumar

For Respondent:

Mr.S.Raja Kumar

Additional Public Prosecutor



JUDGMENT

This Criminal Appeal has been filed by the accused, challenging the Judgment dated 30.09.2022 in Spl.SC.No.59 of 2022 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram, by which he was convicted for the offence under Section 9(m) r/w 10 of the Protection of Children from the Sexual Offences Act, 2012 (hereinafter referred to as the “**POCSO Act**”), and sentenced him as follows:

Offence under Section	Sentence imposed
Section 9(m) r/w 10 of the POCSO Act, 2012.	To undergo RI for five years and to pay a fine of Rs.10,000/- in default to undergo SI for three months.

2(a). The case of the prosecution is that while the victim, P.W.2, aged about six years, her mother, P.W.1, and brother, P.W.4, were travelling in a bus, the appellant/accused sat next to the victim girl and kissed her and thereafter raised her frock and inappropriately touched her undergarment; that thereafter, when the victim’s mother questioned the act of the appellant, the appellant slapped the mother of the victim, P.W.1, and another person by the name of Mr. Samuel, examined as P.W.5, and thus committed the aforesaid offence and criminal intimidation.

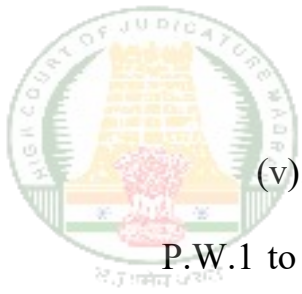
(b). P.W.1 initially informed her husband, P.W.3, on 18.01.2022 and thereafter lodged a complaint [Ex.P1] on the same day. The said complaint was



registered by P.W.13, the Sub Inspector of Police. She registered the complaint as an FIR [Ex.P8] in Crime No. 2 of 2022 for the offences under Sections 323 and 506(2) of the Indian Penal Code, 1860 (hereinafter referred to as the “*IPC*”), and Section 9(m) r/w 10 of the POCSO Act, and thereafter, handed over the investigation to P.W.14, the Inspector of Police.

(c) P.W.14, examined the witnesses, and made arrangements to examine the 164 Cr.P.C. statement of the victim girl, and after the conclusion of the investigation, filed the Final Report against the accused/appellant for the offences under Sections 342, 354-A, 323 (2 counts), and 506(i) of the IPC and Section 9(m) r/w 10 of the POCSO Act before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram.

(d) On the appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with, and the case was taken on file as Spl.S.C.No.59 of 2022 by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram. The trial Court framed charges against the accused for the offences under Sections 506(i) and 323 (2 counts) of the IPC and Section 9(m) r/w 10 of the POCSO Act. During the trial, when questioned, the accused pleaded 'not guilty.'



(v). Before the trial Court, the prosecution had examined 14 witnesses as P.W.1 to P.W.14 and marked 12 exhibits as Exs.P1 to P12. When the accused was questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against him, he denied the same. The accused neither examined any witness nor marked any document on his side.

(vi) The trial Court acquitted the accused/appellant for the offences under Sections 506 (i) and 323 (2 counts) of the IPC and convicted him for the offence under Section 9(m) r/w 10 of the POCSO Act and sentenced him as stated in paragraph No.1 of this Judgment. Aggrieved by the said conviction and sentence, the accused had preferred the instant appeal.

3. Mr. P. Muthamizhselvakumar, the learned counsel for the appellant/accused, would submit that all the witnesses turned hostile; that the impugned Judgment convicting the appellant cannot be sustained; that the learned Judge ought to have seen that the victim, P.W.2, has made contrary statements in her deposition and in her cross-examination; that P.W.1, the mother of the victim girl, who claimed to be an eyewitness, was unable to identify the appellant and was treated hostile; and that since the prosecution had not established the case beyond reasonable doubt, the impugned Judgment is liable to be set aside, and he prayed for acquittal of the appellant.



4. Mr. S. Raja Kumar, the learned Additional Public Prosecutor, *per contra*, submitted that though the other witnesses turned hostile, the evidence of the victim cannot be discarded; that the victim in her 164(5) Cr.P.C. statement and in her deposition had consistently stated that she was sexually assaulted; that the victim had identified the appellant in her chief examination, and in the cross-examination, which was done on the next day, she could not identify the appellant; that therefore, the impugned Judgment is justified, and he sought for dismissal of the appeal.

5. As stated earlier, the prosecution had examined 14 witnesses. P.W.1 is the mother of the victim girl and the *de-facto* complainant. P.W.2 is the victim girl. P.W.3 is the father of the victim girl. He is a hearsay witness. P.W.4 is the brother of P.W.2 and the son of P.W.1. P.W.5 is an eyewitness to the occurrence. P.W.6 is the Observation Mahazar witness. P.W.7 is another Observation Mahazar witness. P.W.8 and P.W.9 are the witnesses who had signed in the confession of the appellant. P.W.10 is the brother of P.W.3, and he is a hearsay witness. P.W.11 is the conductor of the bus. P.W.12 is the driver of the bus. P.W.13, the Sub-Inspector of Police who registered the FIR. P.W.14 is the Investigating Officer who conducted the investigation and filed the Final Report.



6. P.W.1 to P.W.12 were treated as hostile by the prosecution. P.W.5, an eyewitness to the occurrence, would state that the appellant could not be identified. P.W.3 and P.W.10 are hearsay witnesses who also turned hostile. P.W.1, the mother of the victim, would support the prosecution case to the extent of narrating the incident that had taken place on 18.01.2022 in a moving bus, and she had witnessed the said occurrence. In fact, in her chief examination, she has not supported the prosecution case as regards the alleged assault on her. She had also deposed that she did not remember the appellant, and she would be unable to identify the appellant. When she was specifically asked to identify, she would state that she had not seen the appellant. Hence, she was treated as hostile. Nothing has been elicited by the prosecution in her cross-examination to accept any portion of her evidence. She reiterated in the cross-examination by the defence that she did not know whether the appellant had committed the aforesaid offence.

7. During the investigation, P.W.2, the victim, aged about 6 years at the time of occurrence, stated that an old man (Thatha) had committed sexual assault on her. In her deposition, she had denied the signature in Ex.P3, which is her 164(5) Cr.P.C. statement. Hence, she was treated hostile. Even in her cross-examination by the prosecution, she had stated that she did not know who had attacked P.W.5 and her mother, P.W.1. During the cross-examination of the



defence, she would categorically state that she had not seen the appellant in the bus on the date of occurrence. The relevant portion reads as follows:

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"நேத்து பார்த்தபோது இருந்த தாத்த அன்றைக்கு
பஸ்சில் பாக்கவிலையா என்றால் - பார்க்கல

The prosecution had cross-examined P.W.2, victim girl, and she reiterated the said fact in her cross-examination.

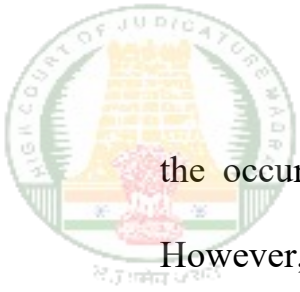
...

"நேத்து நீங்க சொல்லும்போது நேத்து பார்த்த அந்த
தாத்தா தான் பஸ்சில் உங்க கூட்டு உட்காரவைத்தாரா
என்றால் - இல்லை நான் பார்க்கல.

நீங்க அந்த தாத்தாவ நல்ல பார்த்தேன் என்றாலும்,
நீங்கள் அந்த தாத்தா தரப்பினா பார்க்கல என்று
சொல்லச்சொன்னதால் அவ்வாறு சொல்கிறேன் என்றாலும் -
இல்ல யாருமே சொல்லித் தரல."

8. It is in the light of this evidence that this Court have to appreciate the other evidence on record. The prosecution had only established that an occurrence took place, on 18.11.2022, as could be seen from the evidence of P.W.1, the mother of the victim girl, and the fact that the complaint [Ex.P1] was lodged on the same day.

9. P.W.1, the mother of the victim girl, had categorically admitted that she was unable to identify the appellant, though she claimed to have witnessed



the occurrence. P.W.2, the victim girl, had initially identified the appellant.

However, in her cross-examination had stated that the appellant was not the person involved in the occurrence and reiterated that in the cross-examination of the prosecution, after she was treated hostile. The other witnesses, as stated above, turned hostile. Therefore, this Court is of the view that the appellant has rebutted the presumption under the POCSO Act and the prosecution has failed to prove its case beyond a reasonable doubt. It would be highly unsafe to convict the appellant on the basis of such evidence of the victim and that of her mother. Hence, this Court is inclined to set aside the impugned judgment of conviction and sentence.

10. Accordingly, the Criminal Appeal stands allowed. The conviction and sentence imposed upon the appellant/accused vide judgment dated 30.09.2022 by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram in Spl.SC.59 of 2022, are set aside. The appellant is acquitted of all the charges. The fine amount, if any, paid by the appellant shall be refunded. The bail bond, if any, executed shall stand discharged.

02-02-2026

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



To

1. The Sessions Judge,
Special Court for Exclusive Trial of Cases under
POCSO Act,
Villupuram.

2. The Inspector Of Police
Ulunthurpet All Women Police Station,
Villupuram District.

3. The Public Prosecutor
High Court of Madras,
Chennai – 600 104.



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SUNDER MOHAN J.

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