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Crl.A.No.600 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.06.2026
PRONOUNCED ON : 19.08.2026

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.600 of 2022

1.Madurakavi
2.Venkatesan

... Appellants

Vs.

State rep. by
The Inspector of Police,
Killai Police Station,
Chidambaram, Cuddalore District.
(Crime No.121 of 2019)

... Respondent

Prayer: Criminal Appeal filed under Section 378 of Cr.P.C., to set aside the conviction and sentence of the appellants by judgment dated 31.05.2022 in S.C.No.07 of 2021 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore and acquit the appellants.

For Appellant : Mr.N.U.Pressanna

For Respondents : Mr.S.Udayakumar
Government Advocate (Crl. Side)



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JUDGMENT

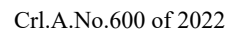
The appellants/accused in S.C.No.07 of 2021 convicted by the Trial Court by judgment dated 31.05.2022 imposed a fine of Rs.500/- each, in default of payment of fine one week simple imprisonment for each of the offences under Sections 294(b), 352, 323, 448 and 506(i) IPC, to undergo three years rigorous imprisonment and to pay a fine of Rs.1,000 each, in default, to undergo one month simple imprisonment for the offence under Section 11(1) r/w. 12 of Protection of Children from Sexual Offences (POCSO) Act, 2012. All the sentences to run concurrently. Aggrieved against the same, the appellant preferred the present appeal.

2.The case of the prosecution is that the defacto complainant, father of the first victim lodged a complaint stating that on 27.10.2019 at about 4.30 p.m., his minor daughter along with his cousin's minor daughter on a Deepavali day were coming from Mandapam village to their house and when they passed by the Panchayat building, the appellants and others belonging to Adi Dravidar Colony made lucid comments with sexual intent



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causing harassment. The appellants and others sung a rhyming song about mehendi cone and mobile phone in the hands of the victim and to dance with them at the night hours. The victims felt ashamed, ran to their house crying and informed the mother of the first victim. The appellants along with one Juvenile followed the victims and made allegation that victims while passing by seeing the appellants and others dancing, spitted. PW2, mother of victim/PW1 enquired about the same, both PW1 and PW7 denied of any spitting. There was commotion and the appellants used abrasive words against the defacto complainant's wife. When the defacto complainant came out of the house on hearing the noise, he was pushed down to a cot and attacked. When the defacto complainant's wife intervened, she was also attacked. The sons of the defacto complainant who were playing nearby on hearing the noise came to rescue but they were also attacked. The defacto complainant lodged a complaint and FIR registered. On the next day, the defacto complainant's son was taken to the Hospital for the injuries sustained during the attack. The victims were produced before the Magistrate and 164 statements recorded. During investigation, PW1 to PW4 and PW7 deposed with regard to the incident proper. PW5/Doctor who examined PW4 gave a report/Ex.P4. On conclusion of investigation, charge



3. The learned counsel for the appellants submitted that the appellants were implicated in this case. It was a Deepavali day, the appellants were at the temple and they were dancing and singing songs in celebration of Deepavali. One year before, the defacto complainant's second son, Subbarasan, was riding a motorcycle in a rash and negligent manner which was questioned by the first appellant, there was a fight in this regard and there was also a Police complaint and enquiry. The relationship between the appellants and the defacto complainant's family was not cordial. The appellants belonged to Scheduled Caste Community and the defacto complainant belonged to Vanniyar Community, they developed animosity between them and almost during any festival or celebrations, there was some quarrel between them. The victims who passed by the Panchayat Office saw the appellants along with their group belonging to Adi Dravidar Community.



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dancing, the victims/PW1 and PW7 passed comments and spitted. The appellants questioned the act of the victims with PW3/mother of the victim who used abrasive words against the appellants. There was a wordy quarrel and commotion, at that time, PW4 and his brother Silambarasan intervened, who assaulted the appellants and they sustained injuries, lodged a complaint. The respondent police called both for enquiry but not taken any action. In offensive, as a counter blast the above complaint lodged against the appellants. The Investigating Officer took up investigation, on the very next day at 8.00 a.m. the appellants were arrested and after the arrest only PW4 was asked to go for medical treatment. PW5/Doctor examined PW4 and found no serious external injuries and it was only contusion and pain. Thus the complaint of the appellants suppressed and they were targeted and gaged. PW5 Doct records the earlier day incident and fight. In this case, admittedly PW2 came to the scene of occurrence only after the incident but projects a case as though he was present and the appellants attacked him. The witnesses PW2 and PW3 state that they also got injured but not taken any medical treatment. Thus the alleged attack on PW2, PW3 and PW4 in front of their house proved false. In this case, PW1 and PW7 are the only witnesses to speak about the sexual harassment, PW7 admit when



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appellants questioned PW3, she went inside the house and she does not know what had happened. PW1, daughter of PW2 and PW3 gives a exaggerated version. Going by the evidence of PW1 and PW7, the comments passed by the appellants does not attract sexual intent, utmost it is a normal comment made by the dancing group during celebration, which cannot be termed as sexual harassment. Further, in this case except for the family members of the defacto complainant PW1 to PW4 and PW7, no other public witness examined. PW8 is the Village Headman, who though states that in his presence observation mahazar and rough sketch prepared but admits that he does not know what is written there. The other witnesses are Police Personnel. These factors are not considered by the Trial Court. The Trial Court failed to understand the factum of ground reality where there is continuous animosity between two groups and it gets flared up whenever there is any celebration, further during Deepavali celebrations, singing songs and dancing is common. Thus usual remarks made is magnified and projected as though the appellants made sexual harassment and they are convicted.



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4.The learned Government Advocate (Crl. Side) strongly opposed the appellants' contention and submitted that in this case, PW2 is the father of the first victim/PW1, who lodged a complaint on 27.10.2019 at about 6.00 p.m., PW9/Sub-Inspector of Police received the complaint and registered FIR/Ex.P12. PW12 took up investigation, visited the scene of occurrence, prepared observation mahazar/Ex.17 and rough sketch near the Panchayat Office and to the front of defacto complainant's house, Ex.P18 and Ex.P19 in the presence of witnesses. In this case, PW1 and PW7 are minors and their age is not seriously disputed. PW1 and PW7 were called by their aunt, who is running a shop, being a Deepavali day expecting crowd and rush, they went to help their aunt and at about 4.00 p.m., they came back to collect food, at that time, they passed by the Panchayat Office, holding mehendi cone and mobile phone in their hands, at that time, the appellants passed sexual comments causing harassment. The victims suffered the words, feared and ran crying and informed PW3. The appellants followed the victims and made false allegations as though victims insulted them by spitting, but when the victims were enquired, they denied the same. The appellants abused and threatened PW3, mother of victim, PW2 father of



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victim was inside the house on hearing the noise came out and he was pushed down and abused. PW4 and his brother Silambarasan who were playing nearby came rushing, intervened and questioned the appellants but PW4 was pushed down, punched and beaten, in which, he suffered injury on his neck, face and shoulders. PW1 lodged a complaint and in the presence of PW8 and other witnesses, observation mahazar and rough sketch prepared, the accused arrested and produced for remand. In this case, the victims PW1 and PW7 gave 164 statement confirming the complaint. PW4 was examined by Government Doctor PW5 and gave wound certificate. On conclusion of investigation, charge sheet filed. During trial, all the witnesses supported the case of the prosecution. The Trial Court on the evidence and materials rightly convicted the appellants. Hence, prays for dismissal of the appeal.

5.Considering the submissions made and on perusal of the materials, it is seen that the alleged occurrence is said to have taken place at about 4.00 p.m. on 27.10.2019 when PW1 and PW7, minor girls passing by the Panchayat Office was said to be sexually harassed. Being a Deepavali day the appellants and others who belong to Adi Dravidar Colony were playing



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music and dancing, at that time, the victims passed by showing disapproval to the dance and music by the Adi Dravidar colony people, they spitted which was questioned by the appellants. Though it is projected that PW1 and PW7 came crying and the appellants chased them, it is seen from the evidence that the appellants only questioned the spitting. PW7, the minor victim admits that she had not cried, went into the house of PW1 and does not know what happened outside the house. The evidence of PW3/mother of the first victim is that she questioned both PW1 and PW7 victims, whether there was any spitting by them, both denied. PW3 confirms that when appellants abused her, PW2 was inside the house came to her rescue and he was pushed down and beaten. On the contrary, PW1's evidence is that at 4.30 p.m. when the appellants came and abused, her father was not there, he came back home by 6.00 p.m. after grazing the cattle and he was informed about the incident and thereafter, complaint lodged. Hence, the presence of PW2/defacto complainant highly doubtful. PW3 though states that she was abused and assaulted, she had not taken any medical treatment. PW4, brother of PW1 goes to Hospital only on 28.10.2004 at 12.20 p.m. The evidence of Investigating Officer is that the accused were arrested on 28.10.2004 at 8.00 a.m. and they were produced for remand. It is apparent



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that to justify the arrest and add force to the case, PW4 went to the Hospital for treatment, from medical report/Ex.P4, it is seen that there is some contusion over the right elbow, neck and on the head. PW5/Doctor confirms that PW4 was complaining of pain and the injuries are simple in nature. The appellants' contention that there was scuffle, they were attacked and complaint lodged but no action on their complaint cannot be brushed aside in view of prevailing animosity between the two group, there is marked division and wedge between the appellants who belongs to Scheduled Caste Community and the defacto complainant who belonged to Vanniyar community. Even during the New year celebrations of that year, there was a fight and Police complaint between two groups. Whenever there was any celebrations by the appellants' group for any event, there is commotion and fight. Thus, small issues get magnified and likelihood of false implications is there. In such circumstances, without any independent witness and material corroboration on the facts of the case for abuse, threat, insulting in public place, assault, house trespass and criminal intimidation all doubtful not proved and thus conviction is to be set aside.



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6.As regards the charge for offence under Section 11(1) r/w. 12 of

POCSO Act, the evidence of PW1 and PW7 alone remains. There are contradictions between the evidence of PW1 and PW7. PW7 states that the appellants and others of Adi Dravidar Colony were dancing and singing, at that time, lucid comments passed but does not state anything about getting insulted and crying or running to save from insult and harassment, but PW1 gives exaggerated version. On deciphering the words said to have been uttered “கையில் கோனும், காதல போனும் மேட்சா இருக்கு, ராத்திரி இவளுக்கிட்ட ஒரு ஆட்டம் போட்டா சூப்பரா இருக்கும்”, it is clear that it is a rhyming word, taking parallel to a song and nothing more. Imputing meaning to the words from any angle, it is clear that it is not made with any sexual intent. The sexual intent is a matter of fact and the above recital of song can no way be termed as sexual harassment. Thus on decoding the above words uttered by the appellants, this Court finds no case of sexual harassment. From the above, it is seen that the prosecution has miserably failed to prove the case beyond reasonable doubt, Hence this Court is inclined to set aside the conviction and sentence imposed by the Trial Court.



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7. In the result, this Criminal Appeal stands allowed setting aside the judgment dated 31.05.2022 in S.C.No.07 of 2021 passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore. The appellants are acquitted from all the charges levelled against them. Fine amount if any paid shall be refunded. Bail bond if any executed shall stand cancelled.

19.08.2026

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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To

- 1.The Sessions Judge,
Special Court for Exclusive Trial of Cases
under POCSO Act,
Cuddalore.
- 2.The Inspector of Police,
Killai Police Station,
Chidambaram,
Cuddalore District.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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Pre-delivery judgment made in

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