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Crl.A.No.131 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-08-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

Crl.A.No.131 of 2026 and
Crl.M.P.No.11681 of 2026

Rayappan
S/o.Raju,
Flat No.3, Nanjil Tower,
Medavakkam Main Road,
Vadakkupattu, Kovilambakkam,
Chennai - 600091.

..Appellant(s)

Vs

State, Rep. by
The Inspector of Police,
W32 All Women Police Station,
Madipakkam,
Chennai.
Crime No.20 of 2019

..Respondent(s)

PRAYER: Criminal Appeal is filed under Section 374 of Code of Criminal Procedure, to set aside the conviction and sentence imposed against the Appellant/Accused in the Judgment dated 02.01.2025 in SPL.S.C.No.28 of 2020 on the file of the Sessions Judge, Special Court For Exclusive Trial of Cases Under POCSO Act, Chengalpet and acquit the Appellant/Accused.

For Appellant(s):

Mr.M.Rajkumar for Ms.P.Ponbalaji

For Respondent(s):

Mrs.Sharada Vivek,
Government Advocate (Crl. Side) assisted by
Mr.M.Arul Raj



JUDGMENT

The appellant was convicted *vide* judgment dated 02.01.2025 in Special S.C.No.28 of 2020 by the learned Sessions Judge, Special Court for Exclusive trial of cases under POCSO Act, Chengalpet (Trial Court) and sentenced to undergo imprisonment for ten years and to pay a fine of Rs.1,000/-, in default, to undergo Simple Imprisonment for six months for offence under Section 366 IPC; sentenced to undergo imprisonment for five years and to pay a fine of Rs.1,000/-, in default, to undergo Simple Imprisonment for six months for offence under Section 10 of Protection of Children from Sexual Offences Act, 2012; and sentenced to undergo imprisonment for two years and to pay a fine of Rs.1,000/-, in default, to undergo Simple Imprisonment for three months for offence under Sections 506(i) IPC. Challenging the same, the present appeal filed.

2. Case of the prosecution is that PW1 and PW2 are the father and mother of the victim girl/PW3 aged about 11 years on the date of occurrence and her date birth is 14.03.2009. During the relevant time, the victim was studying 5th std at Rajkumar Sulochana Matriculation School, Madipakkam. The appellant is a friend of the victim's father/PW2 and he used to be friendly with PW2's children. Since PW1 was having infant in her hand and her husband also left for work and whenever there was some difficulty in dropping or picking up the



victim from school, PW1 used to ask appellant to pickup and drop victim by his two wheeler.

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3. On 06.07.2009 at about 03.30 p.m., when victim was returning home in the appellant's bike, the appellant kidnapped victim to Iyappan Nagar lake area, behind Amman Canteen, where the appellant put his hand inside the victim's shirt, rubbed and pinched her, placed his hand on her thigh and also placed his hand on her shoulder, thereby causing sexual harassment and also threatened the victim not to disclose the same to her parents or anyone else. Hence, the victim kept the incident to herself, but she was in a depressed mood and was not normal. Noticing the same, when PW1, mother of the victim enquired the victim, the victim disclosed sexual act committed by the appellant. Immediately, PW1 went to the respondent Police, lodged complaint on 26.09.2019 (Ex.P1) to PW9, Investigation Officer who received the same, registered FIR (Ex.P9) in Crime No.20 of 2019 for offence under Section 9(m) and 10 of Protection of Children from Sexual Offences Act, 2012, prepared Observation Mahazar (Ex.P4), Rough Sketch (Ex.10), examined witnesses, recorded their statements, arrested appellant, recorded his confession statement, 164 Cr.P.C (Ex.P3) of the victim recorded, collected Birth Certificate and School Certificate of victim (Exs.P2 & P6), altered offence to Sections 366, 506(i) IPC and Section 9(m) r/w 10 of Protection of Children from Sexual Offences Act, 2012 *vide* Alteration Report (Ex.P11) and on conclusion of



investigation, filed charge sheet before trial Court. During trial, on the side of the prosecution, PW1 to PW10 examined and Exs.P1 to 11 marked. On the side of the defence, no witness examined and no document marked. On conclusion of trial, trial Court convicted appellant as stated above.

4.Learned counsel for the appellant submitted that in this case, the appellant falsely implicated due to money dispute between the appellant and victim's father/PW2. The appellant availed loan from PW2, the father of the victim, and subscribed to a chit conducted by him. The appellant repaid the loan with interest. Since PW2 demanded exorbitant interest, the appellant refused to pay the same. Thereafter, PW2 sent some muscle men to the house of the appellant, threatened appellant's mother and sister-in-law at odd hours and also threatened showing knife that petrol bomb would be thrown at them. About three months prior to 20.09.2019, the appellant threatened and his signature obtained in blank bond papers. According to the appellant, he liable to pay only Rs.42,000/-, whereas PW2 demanded Rs.5,25,000/-. Hence, on 20.09.2019, the appellant sent a complaint to Home Secretary, Commissioner of Police, Chennai, Joint Commissioner of Police, St.Thomas Mount, and Deputy Commissioner of Police, St.Thomas Mount. On coming to know about the said complaint, PW2, through PW5, his friend, called the appellant and asked him to withdraw the complaint, which the appellant refused to do. Thereafter, by using his daughter/PW3 and wife/PW1, false complaint lodged against the appellant.



5. Referring to the complaint (Ex.P1), learned counsel for the appellant submitted that there are corrections in the date of the complaint, and the time and place of occurrence also interpolated, which is admitted by PW1 as well as PW9/Investigating Officer. He further submitted that PW1 earlier lodged a complaint on 25.09.2019, but in the said complaint, no overtact attributed to the appellant as subsequently stated in the complaint (Ex.P1). After lodging the complaint on 25.09.2019, the victim was taken to the Government Hospital, Tambaram @ Chrompet on 26.09.2019, where the Casualty Doctor examined her and recorded alleged sexual abuse by a known person occurred at her residence. Thus, the place of occurrence itself having been shifted would clearly establish the falsity of the prosecution case.

6. He further submitted that, in this case, the complaint dated 25.09.2019 and the Accident Register dated 26.09.2019 were the documents served on the appellant under Section 207 Cr.P.C., but the same not marked during the trial. Thereafter, the appellant filed petition under Section 391 Cr.P.C. in Crl.M.P.No.5615 of 2026 in Crl.A.No.131 of 2026, and this Court, by order dated 08.06.2026 ordered to mark three documents, namely, the complaint of PW1 dated 25.09.2019 as Ex.C1; the Accident Register dated 26.09.2019 as Ex.C2; and the complaint of the appellant dated 20.09.2019 sent to various authorities as Ex.C3. Exs.C1 to C3 clearly established the falsity of the prosecution evidence and materials. In fact, PW9, the Investigating Officer,



specifically questioned as to whether the victim sent to any hospital for medical examination, but she feigned ignorance. In Ex.C2, it is recorded that a Women Head Constable, Tmt.Indira Gandhi, WHC 35671 attached to W-32 All Women Police Station, Keezhkattalai, produced the victim to the hospital for medical examination. Hence, in this case, there are clear suppression of material facts and fabrication of documents. The appellant, having a financial dispute with PW2, falsely implicated in this case. In view of the above, the conviction of the appellant is liable to be set aside.

7.Learned Government Advocate (Crl. Side) appearing for the respondent Police strongly opposed the appellant's submissions and submitted that in this case, PW1 and PW2 are parents of the victim/PW3. The complaint (Ex.P1) is a detailed one wherein PW1 clearly stated that on 06.07.2019, the appellant brought the victim from the school to her house, on the way, the appellant kidnapped the victim to the lake side area behind Amma Canteen where he committed sexual assault on the victim and also threatened her not to disclose the same to her parents or anyone else. The victim not disclosed the fact to the parents immediately, but she found to be sober and disturbed. When the victim enquired on 26.09.2019, the victim informed her mother/PW1 about the sexual assault committed by the appellant. Thereafter, PW1 went to respondent Police Station lodged the complaint (Ex.P1) to PW9, Investigating Officer, who registered FIR (Ex.P9) in Crime No.20 of 2019 for offence under Section 9(m)



and 10 of Protection of Children from Sexual Offences Act, 2012, prepared Observation Mahazar (Ex.P4), Rough Sketch (Ex.10), PW2/victim enquired, her statement recorded, thereafter, she produced before the Magistrate where she confirmed the sexual act committed by the appellant. The victim was a minor is proved by PW7 through Exs.P6 & P7. PW4 & PW10, from Amma Canteen confirmed the incident happened. Thereafter, PW9 collected the Birth Certificate and School Certificate of the victim (Exs.P2 & P6), altered the offences to Sections 366, 506(i) IPC and Section 9(m) r/w 10 of Protection of Children from Sexual Offences Act, 2012 *vide* Alteration Report (Ex.P11) and on conclusion of investigation, filed charge sheet before trial Court. During trial, on the side of the prosecution, PW1 to PW10 examined and Exs.P1 to 11 marked.

8.She further submitted that the victim was a minor aged about 9 years at the relevant time and there is no reason for her to falsely implicated the appellant. PW2, father of the victim and the appellant might have had some dispute, but no father would ordinarily use the minor daughter for the purpose of foisting a case.

9.Considering the submissions and on perusal of the materials, it is seen that PW3 is the victim aged about 11 years and her date birth is 14.03.2009. According to the victim, on 06.07.2009 when she was returning home from the



school, the appellant kidnapped her to Iyappan Nagar lake area, behind Amma Canteen, where he put his hand inside the shirt of the victim, pinched and rubbed her and also rubbed her thighs and shoulders. Further, the appellant said to have threatened the victim not to disclose the same to her parents or anyone else. The victim not disclosed the fact immediately, but informed her mother on 26.09.2019, who thereafter lodged the complaint (Ex.P1).

10.In the statement recorded under Section 164 Cr.P.C. (Ex.P3), the victim stated that the victim made to sit near lake area and the appellant put his hand inside the shirt and rubbed her breast and nothing more. But, in the evidence before the trial Court, she gives exaggeration version with regard to rubbing her breast, shoulder, thighs and placing his hands on her body. Thus, there is material variation between the statement recorded under Section 164 Cr.P.C. (Ex.P3) and the evidence of the victim before the trial Court.

11.On perusal of the complaint dated 25.09.2019 (Ex.C1), it is seen that PW1 stated that when the victim was being taken to school, the alleged sexual assault took place. But the subsequent prosecution case is that the appellant took the victim to the lake-side area when she was returning from the school. PW9, Investigating Officer confirms that the victim was not taken to any hospital for medical examination and also confirms that PW1, mother of the victim refused to subject the victim for medical examination. But, Ex.C2



confirms that the victim was taken to Government Hospital, Tambaram @ Chrompet on 26.09.2019 and in the Accident Register dated 26.09.2019 (Ex.C2), it is recorded that the occurrence took place inside the house of the victim, hence, there is clear discrepancy with regard to the place of occurrence.

12.Looking from this perspective, the evidence of PW3 has to be scrutinised with double caution. It is seen that the appellant sent a complaint to the Home Secretary and various Police officials on 20.09.2019, which is proved through Ex.C3. PW5, a friend of PW2 confirms that he was asked to be a witness by PW2. It was specifically suggested to PW5 that he was called by PW2 on 21.09.2019 after coming to know about the complaint sent against PW2. Hence, animosity between the appellant and PW2 cannot be completely ruled out.

13.In this case, PW4, employed in Amma Canteen, has not seen the alleged occurrence and her evidence is in the nature of hearsay. PW10, the other witness from Amma Canteen, not supported the case of the prosecution. It is the evidence of PW1 and PW2 that whenever it was not possible for PW2 to take the victim to the school, the appellant used to take her to the school, drop her and pick her up. Further, PW4 & PW10, the witnesses from Amma Canteen not stated that they saw the victim and the appellant near lake area, hence, there is no independent evidence to establish that the appellant kidnapped or forcibly



abducted the victim.

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14. With regard to the offence under Section 9(m) r/w 10 of Protection of Children from Sexual Offences Act, 2012 and Section 506(i) IPC, the alleged threat not supported by any material or evidence. In this case, the occurrence said to have taken place on 06.07.2019. At the initial stage, PW3 gives a different version with regard to sexual assault and subsequently, the same appears to have embellished and improved, as could be seen from Ex.P3 and her evidence. The said material variation assumes significance in the facts and circumstances of the present case.

15. In this case, there are clear suppression of material facts with regard to Exs.C1 & C2. Ex.C3 confirms that the appellant made complaint against PW2, father of the victim, prior to registration of the present case. Hence, the existence of animosity between the appellant and PW2 cannot be ruled out. From Exs.C1 & C2, it is seen that Ex.C1 is dated 25.09.2019 and Ex.C2 is dated 26.09.2019. Even before this complaint Ex.P1, there had already been earlier complaint and the victim was taken to the hospital. But these material facts not disclosed in the subsequent prosecution case. Thereafter, the complaint Ex.P1 came to be lodged with enlarged version of the occurrence. The prosecution not satisfactorily explained the material discrepancies between Exs.C1, C2 and Ex.P1. Hence, the suppression of these material facts creates a serious doubt



regarding the truthfulness of the prosecution case.

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16.In view of the above, the prosecution case is shrouded with serious doubt. The material contradictions regarding the place of occurrence, the variations in the version of PW3, the discrepancy between the evidence of PW9, Investigating Officer and Ex.C2 regarding the medical examination, the absence of independent corroboration, and the prior dispute between PW2 and the appellant, as a whole, create reasonable doubt on the prosecution case. The possibility of the complaint being motivated cannot be completely ruled out.

17.In view of the above, this Court finds that the prosecution failed to establish beyond reasonable doubt that the appellant kidnapped or forcibly abducted the victim, committed the sexual act or criminally intimidated her as alleged. Hence, the appellant is entitled to the benefit of doubt.

18.In view of the above, the judgment dated 02.01.2025 in Special S.C.No.28 of 2020 passed by the learned Special Judge, Special Court for Exclusive trial of cases under POCSO Act, Chengalpet is set aside. The appellant is acquitted from all charges. Bail bond if any executed shall stand cancelled. Fine amount if any paid shall be refunded. The Superintendent of Prison, Central Prison, Puzhal-I, Chennai is directed to release the appellant forthwith.



19. In the result, this Criminal Appeal is Allowed. Consequently,
connected Criminal Miscellaneous Petition is closed.

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18.08.2026

Index: Yes/No
Speaking/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,
Chengalpet.
2. The Inspector of Police,
W32 All Women Police Station,
Madipakkam, Chennai.
3. The Public Prosecutor,
Madras High Court.

Copy To:

The Superintendent of Prison,
Central Prison, Puzhal-I, Chennai.

Note: Issue Order Copy on 19.08.2026.



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M.NIRMAL KUMAR, J.

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