



**R.T(MD)No.1 of 2026
& CrI.A(MD)No.278 of 2026**

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2026

CORAM:

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

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1.R.T(MD)No.1 of 2026:

State of Tamil Nadu,
Represented by the Inspector of Police,
AWPS Nanguneri,
Tirunelveli District.
Crime No.9 of 2025

... Petitioner/Complainant

Vs.

Palesaikki

... Respondent/Accused

PRAYER:- Referred Trial is filed under Section 366 of Cr.P.C on the judgment and order 17.12.2025 passed in Special C.C.No.208 of 2025 on the file of the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli.



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For Appellant : Mr.Hassan Mohammed Jinnah
State Public Prosecutor
Assisted by
Mr.R.M.Anbunidhi
Additional Public Prosecutor

For Respondent : Mr.A.Purantharadhasar
Legal Aid Counsel

2.CrI.A(MD)No.278 of 2026:

Palesaikki ... Appellant/Sole Accused
Vs.

State represented by,
The Inspector of Police,
All Women Police Station-Nanguneri,
Tirunelveli District.
(Crime No.9 of 2025) ... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 374(2) of Cr.P.C to call for the entire records pertaining to the judgment delivered by the Special Court for Exclusive Trial of Cases under POCSO Act, Tirunelveli District in Special C.C.No.208 of 2025 through Judgment dated 17.12.2025 and set aside the same and consequently acquit the appellant honorably.



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For Appellant : Mr.A.Purantharadhasar
Legal Aid Counsel

For Respondent : Mr.Hassan Mohammed Jinnah
State Public Prosecutor
Assisted by
Mr.R.M.Anbunidhi
Additional Public Prosecutor

COMMON JUDGMENT

**(Judgment of the Court was delivered by
G.K.ILANTHIRAIYAN, J.)**

R.T.No.1 of 2026 is a reference made by the Special Court for Exclusive Trial of Cases under POCSO Act, Tirunelveli, under Section 366 of Cr.P.C., for confirmation of the death sentence awarded to the accused in Spl.C.C.No.208 of 2025, by Judgment dated 17.12.2025.

2.CrI.A(MD)No.278 of 2026 has been preferred as against the Judgment passed in Spl.C.C.No.208 of 2025, dated 17.12.2025 on the file of the Special Court for Exclusive Trial of Cases under



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POCSO Act, Tirunelveli, thereby convicting the accused for the offences punishable under Sections 5(n), 5(j) (ii) read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 (in short hereinafter referred to as 'the POCSO Act') and Section 351(2) of BNS.

3.The case of the prosecution is that the minor victim girl, aged about 13 years, was residing with her parents. The accused is her father, and her mother has been examined as P.W.2. Her younger brother has been examined as P.W.3. All of them were living in a single-room house. Her parents were working as daily wage labourers. While being so, in the month of August 2024 around 01.00 a.m., the accused in a drunken mood committed penetrative sexual assault on the victim girl while other family members were sleeping. When the victim girl raised an alarm, the accused threatened her with dire consequences. Her mother also woke up,



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and she was given the false impression that the accused was adjusting the TV plug.

4.Once again in the same month of August, 2024, when the mother and brother of the victim were not available in the house, the accused had committed penetrative sexual assault on the victim. He also threatened her with dire consequences if she disclosed the occurrence to anyone. Thereafter, the victim became pregnant. On account of the cessation of her menstrual cycle, her mother subjected her to a medical examination. During the medical examination, the victim was found to be approximately 26 weeks pregnant. When the victim's mother questioned her about the pregnancy, the victim disclosed the sexual assault committed by the accused.

5.Immediately, a complaint was lodged before the respondent police, and an F.I.R. was registered in Crime No.9 of



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2025 for the offences punishable under Sections 7, 8, 3, 4, 5(j)(ii), 6 and 5(n) of the POCSO Act and Section 351(2) of the BNS.

6.Subsequently, the victim delivered a premature male child on 17.02.2025, and the child died due to complications arising out of perinatal asphyxia on 18.02.2025. After completion of the investigation, the respondent filed a final report, which was taken cognizance of by the Trial Court, and charges were framed against the accused for the offences punishable under Sections 3 read with 4, 7 read with 8, 5(n), and 5(j)(ii) read with 6 of the POCSO Act and Section 351(2) of the BNS.

7.In order to bring the charges to home, the prosecution examined P.W.1 to P.W.23 and marked Exs.P1 to P38. The Court examined Ex.C.1 and Ex.C.2. On the side of the accused, no witnesses were examined and no documents were produced before



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the Trial Court.

8.On perusal of the oral and documentary evidence, the trial Court convicted the accused for the offences punishable under Sections 5(n), 5(j) (ii) read with Section 6 of POCSO Act and Section 351(2) of BNS and sentenced him to death and that he shall be hanged by the neck, till he is dead and to pay a fine of Rs. 20,000/- in default to undergo three years Rigorous Imprisonment for the offence punishable under Section 5(n), 5(j) (ii) read with Section 6 of POCSO Act and to pay a fine of Rs.5,000/- in default to undergo six months Rigorous Imprisonment for the offence punishable under Section 351(2) of BNS. Aggrieved by the same, the appellant has filed the present Criminal Appeal.

9.This Court ordered notice in the referred trial to the accused. On receipt of the same, he appeared through video



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conferencing and expressed his inability to engage counsel and requested that a legal aid counsel be appointed.

10.Considering the above submission, this Court appointed Mr.A.Purantharadhasar, Advocate, as legal aid counsel for the accused.

11.On instructions, the learned counsel appearing for the accused also preferred an appeal in CrI.A.(MD) No.278 of 2026 as against the judgment dated 17.12.2025 passed in Spl.C.C.No.208 of 2025 on the file of the Special Court for Exclusive Trial of Cases under the POCSO Act, Tirunelveli.

12.The learned counsel appearing for the appellant/accused submitted that the evidence of P.W.1 to P.W.3 contains several infirmities and contradictions and does not corroborate the



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prosecution case. It was further submitted that the medical evidence relating to the DNA test cannot be given due weight for the reason that the procedures contemplated for conducting the DNA test through swabs were not strictly adhered to. Therefore, the DNA report cannot be relied upon by the prosecution.

13.The prosecution has also failed to prove the age of the victim. In order to establish the age of the victim girl, the prosecution relied upon Ex.P.6 – the bonafide certificate issued by the school and examined P.W.10, the Headmistress. The same is contrary to the provisions of Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as “the JJ Act”), since, as per sub-section (1) of Section 94 of the JJ Act, a bonafide certificate does not fall within the ambit of a certificate issued by the school. Therefore, the Trial Court ought not to have convicted the accused.



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14.The evidence of P.W.2 reveals that, initially, P.W.1 was taken to the Munanjipatti Primary Health Centre and thereafter to a private clinic. P.W.1 was suffering from a low hemoglobin level and an ulcer. However, the Investigating Officer did not examine any witnesses in this regard. Further, the Trial Court failed to follow the guidelines laid down by the Hon'ble Supreme Court of India regarding the circumstances under which the death penalty may be awarded.

15.Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that the victim was examined as P.W.1 and had categorically deposed about the sexual assault committed by the accused, which is clearly corroborated by the medical evidence. Further, there is no motive for the victim child to falsely implicate her own father as the accused. It is not the case of



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the defence that there was any misunderstanding between the accused and his wife, on account of which a false complaint was foisted against him.

16.It is also not a case of a love affair where proof of age, as contemplated under the JJ Act, assumes significance. The birth certificate was produced and the bonafide certificate was also marked through the Headmistress of the school where the victim was studying. Even according to the accused, the victim girl was a minor at the time of occurrence.

17.The doctor who examined the victim was examined as P.W.14. She deposed in a manner that corroborated the evidence of P.W.1. The victim was found to be pregnant, and her hymen was not intact. After recording the victim's statement, the doctor made entries in the Accident Register, which was marked as Ex.P.10, and



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the medical report was marked as Ex.P.11. Further, a DNA test was conducted, and the DNA test report was marked as Ex.P.24, which establishes that the accused is the biological father of the child. Therefore, the prosecution has categorically proved the charges against the accused.

18.The learned Additional Public Prosecutor further submitted that, insofar as the death sentence is concerned, the Trial Court followed the guidelines issued by the Hon'ble Supreme Court of India and rightly sentenced the accused to death. The Trial Court considered the aggravating circumstances of the crime as well as the mitigating circumstances of the accused before imposing the death sentence. In support of his contention, he also relied upon the judgments of the Hon'ble Supreme Court of India.



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19. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

20. In the light of the submissions made by the learned counsels, the following points arise for consideration:

“(i) Whether the prosecution has proved the charges against the accused beyond reasonable doubt.

(ii) If so, whether the conviction falls within the ambit of the “rarest of rare” cases, warranting the death sentence for the accused.”

21. It is a pathetic case of the victim girl wherein her own father had committed penetrative sexual assault on her. Due to which, she had also gotten pregnant. The accused had also threatened her with dire consequences if she disclosed the matter to



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anyone. It was only during her 25th week of pregnancy that her mother became aware of the situation. The victim was taken to a hospital for a medical examination, where it was confirmed that she was pregnant. She subsequently delivered a male baby; however, the baby died the next day due to perinatal asphyxia. The fetus was subjected to a DNA test, which confirmed that the accused is the biological father.

22.In order to prove the charges, the victim had deposed as P.W.1. She deposed that during the month of August 2024, while they were sleeping, at about 01.00 a.m., her father, who was in an inebriated condition, had committed penetrative sexual assault on her. When she attempted to raise alarm, he threatened her with dire consequences. Even then her mother woke up and immediately the accused managed the situation as if he was trying to switch off the TV plug. Further in the same month when her mother was not



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available in the house and her brother was playing outside, the accused had committed penetrative sexual assault on her. He also threatened her with dire consequences if she disclosed the matter to anyone. Because of the same, the victim did not inform the occurrence to anyone. She became pregnant, and when her menstruation was delayed, her mother took her to the hospital for a medical check-up, where it was confirmed that she was pregnant.

The relevant portion of the deposition of P.W.1 is as follows:

“என் அம்மாவும் அப்பாவும் கூலி வேலை செய்கின்றார்கள். ஆகஸ்டு மாதம் 2024 ம் வருடம் தேதி நினைவில்லை நான் எங்கள் வீட்டில் எல்லாரும் படுத்து கொண்டிருந்தபோது இரவு நேரத்தில் சுமார் 1 மணியளவில் என் அப்பா நான் யூரின்போகும் இடத்தில் அவருடைய ஆண் உறுப்பை நுழைத்து பாலியல் பலாத்காரம் செய்தார். அப்போது எனது தந்தை மது அருத்தியிருந்தார். மேலும் என் அம்மா சற்று தள்ளி அதே அறையில் அயர்ந்து தூங்கி கொண்டிருந்தார். எங்கள் வீட்டில் பேன் சத்தம் அதிகமாக இருக்கும். அதை பயன்படுத்தி என் அப்பா என்னிடம் உடலுறவு கொண்டார். நான் கத்தும்போது என் அப்பா என்னுடைய வாயை பொத்தி சொல்ல கூடாது என்று



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மிரட்டினார். நான் கத்தினேன். என் அம்மா எழுந்து எதற்காக போனாய் என்று என் அப்பாவிடம் கேட்டபோது என் அப்பா டிவி பிளக்கை ஆப் பண்ண போனதாக சொன்னார். உடனே என் அம்மாவிற்கும் என் அப்பாவிற்கும் சண்டை வந்தது. அதன் பிறகு ஒரு நாள் பகல் நேரத்தில் சுமார் காலை 10 மணியளவில் என் அம்மா வேலைக்கு போய்விட்டார். என் தம்பி வெளியில் விளையாடிகொண்டிருந்தான். நானும் என் அப்பாவும் மட்டும் தான் வீட்டில் இருந்தோம். அப்போது என் அப்பா நான் யூரின் போகும் இடத்தில் அவரது யு ிரின்போகும் ஆணுறுப்பை வைத்து என் பெண் உறுப்பில் வைத்து உடலுறவு கொண்டார். நான் அம்மாவிடம் சொல்லிவிடுவேன் என்று என் அப்பாவிடம் சொன்னேன். சொன்னால் வெட்டி கொன்றுவிடுவேன் என்று மிரட்டினார். அதனால் நான் பயந்து கொண்டு யாரிடமும் சொல்லவில்லை. என்னையும் என் அம்மாவையும் வெட்டி கொலை செய்து விடுவதாக மிரட்டினார். அதனால் நான் பயந்து கொண்டு என் அம்மாவிடம் சொல்லவில்லை. அதற்கு பிறகு 4 மாதங்களாக எனக்கு மாதவிடாய் வரவில்லை. நான் அதை என் அம்மானிடம் சொன்னேன். என் அம்மா என்னை முனைஞ்சிபட்டியில் உள்ள ஆரம்ப சுகாதார நிலையத்திற்கு பரிசோதனைக்கு அழைத்து சென்றார்.”



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23.Though she was cross-examined by the accused, nothing significant was elicited from P.W.1. It is also noteworthy that the accused, his wife, and two children were staying in the same room. Taking advantage of this, the accused committed penetrative sexual assault on the victim, who is none other than his own daughter.

24.The victim's mother deposed as P.W.2. P.W.2 corroborated the evidence of P.W.1. She stated that the victim had informed her that she had not had her menstrual cycle for the past four months. Consequently, she was taken to the Munanjipatti Primary Health Centre. The doctors reported that the victim had very low hemoglobin and advised her to take vitamin tablets. Despite this, the victim's menstruation did not resume, and she was subsequently taken to a Siddha clinic, where tablets and tonics were prescribed to improve her health. Finally, she was taken to a private clinic, where



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it was confirmed that she was pregnant. Thereafter, the victim disclosed the penetrative sexual assault committed by the accused.

25.On 17.02.2025, the victim delivered a male child, who died the following day. P.W.2 also deposed that the accused frequently quarrelled with her under the influence of alcohol. Consequently, she lodged a complaint before the respondent, which was marked as Ex.P.3. The body of the child was subjected to a post-mortem examination, and some fetal tissue was collected and subjected to a DNA test.

26.The brother of the victim deposed as P.W.3. He stated that in August 2024, the accused was lying on his sister and that she was crying for help. When P.W.2 questioned about the incident, the accused immediately went to switch off the fan. Thereafter, the victim's menstruation stopped, and she was later found to be



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pregnant.

27.To prove the arrest, the prosecution examined P.W.4. P.W.4 knows the accused and P.W.1 to P.W.3. In the presence of P.W.4, the respondent prepared an observation mahazar, which was marked as Ex.P.4.

28.The grandfather of the victim deposed as P.W.5. He stated that he had heard about the victim's illness, following which P.W.2 took her to the hospital. The victim's menstruation had also stopped for four months, and she was subsequently subjected to a medical examination, where she was found to be pregnant.

29.The grandmother of the victim deposed as P.W.6 and corroborated the evidence of P.W.5.



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30.The maternal uncle of the victim deposed as P.W.7. He stated that he had heard about the penetrative sexual assault committed against the victim. The victim was then taken to the hospital, where she was found to be pregnant and delivered a male baby. On the next day, the child died.

31.The other maternal uncle deposed as P.W.8 and also corroborated the evidence of P.W.7.

32.In order to prove the age of the victim, the prosecution examined P.W.10, who is the Headmistress and issued a certificate verifying the victim's date of birth as 12.09.2011. This was also corroborated by P.W.1 and P.W.2. The certificate was marked as Ex.P.6. Furthermore, the accused made a confession in the presence of P.W.12, and the arrest of the accused was also made in the



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presence of P.W.12, who supported the case of the prosecution. The confession statement was marked as Ex.P.8.

33.The doctor who examined the accused deposed as P.W.13. He certified that there was nothing to suggest that the accused is impotent. The potency certificate of the accused was marked as Ex.P.9.

34.The doctor who examined the victim girl had deposed as P.W.14. The victim girl stated that her father had committed penetrative sexual assault on her. During the medical examination, her hymen was not found to be intact, and she was diagnosed as being 26 weeks pregnant. A 26-week fetus was observed in her uterus. The accident register was marked as Ex.P.10, and the medical report was marked as Ex.P.11. After delivering a male child, the child died. Consequently, the child was subjected to a postmortem,



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and the doctor who conducted the postmortem deposed as P.W.15. A piece of the right femur of the child was preserved for DNA analysis and sent for examination. Finally, the doctor opined that the death was possibly due to complications of perinatal asphyxia. The postmortem report was marked as Ex.P.12, and the final opinion was marked as Ex.P.13.

35.The scientific officer deposed as P.W.21. After conducting DNA examination of the fetus and the blood samples of the accused and the victim, it was found that the accused is the biological father of the male child born to the victim. The DNA report was marked as Ex.P.24.

36.As rightly pointed out by the learned Additional Public Prosecutor, it is not the case of the accused that he frequently quarreled with the mother of the victim under the influence of alcohol and that a false case was foisted against him. In fact, there is



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absolutely no cross-examination to that effect from the witnesses.

Therefore, the prosecution has clearly proved the charges against the accused. The Trial Court rightly convicted him.

37. Accordingly, the first point is answered and the conviction for the offences punishable under Sections 5(n) 5(j) (ii) read with 6 of POCSO Act and Section 351(2) of BNS is confirmed.

38. Insofar as the sentence is concerned, the Trial Court awarded capital punishment of death penalty by classifying this case as a “rarest of rare” case warranting death sentence.

39. It is true that the aggravating circumstances arose in the present case since the penetrative sexual assault was committed by the own father of the victim, failing in the most basic duty of care and trust. In fact, the accused repeatedly committed the said offence.



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It demonstrates persistence and deliberate intent of the accused.

Further, the accused also threatened the victim that if she discloses the incident to anybody, he will do away with the life of the victim. It would have caused physiological terror to the physical violation. It revealed extreme moral degradation, total disregard for the safety and dignity of the child. The accused, in order to satisfy his sexual desires, by taking advantage of his control over a dependent and helpless child, had committed sexual assault. The motive of the accused reflects total depravity and it cannot be excused both morally and legally. The victim experienced severe trauma, including forced pregnancy, medical risks, social stigma and loss of the most valuable relationship which is the one that a child has with her father. But to award capital punishment, the Hon'ble Supreme Court of India has laid down various guiding factors, and the same have to be meticulously followed.



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40.The capital punishment has been the subject of extensive social and judicial discussion and debate. One thing is clear that it is neither possible nor prudent to prescribe a universal formula that would apply to all cases where capital punishment has been prescribed. The decision shall always depend upon the facts and circumstances of each case. The law requires the Court to record special reasons for awarding such a sentence. Therefore, the Court must consider factors such as the nature of the offence, how and under what circumstances it was committed, the extent of brutality involved, the motive for the offence, any provocative or aggravating circumstances at the time of commission, the possibility of the convict being reformed or rehabilitated, the adequacy of a sentence of life imprisonment, and other attendant circumstances.

41.Thus, it is imperative for the Court to examine each case



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on its own facts, in light of the enunciated principles. Only through the application of these principles to the facts of a given case can the Court reach a conclusion as to whether the case falls within the category of the "rarest of rare" cases, where imposition of the death penalty alone would serve the ends of justice. The legislative intent behind enacting Section 354(3) of the Cr.P.C clearly demonstrates the legislature's concern is taking human life and imposing the death penalty. This concern for the dignity of human life underscores that such a measure ought not to be employed except in the rarest of rare cases, where alternative options are unquestionably foreclosed.

42.The words, "in the case of sentence of death, the special reasons for such sentence," unambiguously indicate the legislature's command that such reasons must be recorded when imposing a death sentence. In this regard, the Constitution Bench of the Hon'ble Supreme Court of India has held that, to qualify as aggravating



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circumstances forming the basis of special reasons under Section 354(3) of the Cr.P.C, the circumstances must demonstrate aggravation of an abnormal or special degree. At the same time, mitigating circumstances are undoubtedly relevant and must be given significant weight in the determination of sentence. The following guidelines were also issued in the said case:

“(i) The extreme penalty of death need not be inflicted except in gravest cases of extreme culpability.

(ii) Before opting for the death penalty the circumstances of the “offender” also requires to be taken into consideration along with the circumstances of the “Crime”.

(iii) Life imprisonment is the rule and death sentence is an exception. death sentence must be imposed only when life imprisonment appears to be an altogether inadequate punishment having regard to the relevant circumstances of the crime, and provided, and only provided the option to impose sentence of imprisonment for life cannot be conscientiously



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exercised having regard to the nature and circumstances of the crime and all the relevant circumstances.

(iv) A balance sheet of aggravating and mitigating circumstances has to be drawn up and in doing so the mitigating circumstances have to be accorded full weightage and a just balance has to be struck between the aggravating and the mitigating circumstances before the option is exercised.”

43. Therefore, it satisfies the mitigating circumstances that could be considered while determining such a serious issue. The mitigating circumstances are prescribed as follows:

“206. Mitigating circumstances.-In the exercise of its discretion in the above cases, the court shall take into account the following circumstances:

(1) That the offence was committed under the influence of extreme mental or emotional



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disturbance.

(2) The age of the accused. If the accused is young or old, he shall not be sentenced to death.

(3) The probability that the accused would not commit criminal acts of violence as would constitute a continuing threat to society.

(4) The probability that the accused can be reformed and rehabilitated.

The State shall by evidence prove that the accused does not satisfy Conditions (3) and (4) above.

(5) That in the facts and circumstances of the case the accused believed that he was morally justified in committing the offence.

(6) That the accused acted under the duress or domination of another person.

(7) That the condition of the accused showed that he was mentally defective and that the said defect impaired his capacity to appreciate the criminality of his conduct.”

44.In order to award capital punishment, the aggravating



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circumstances are as follows:

“Aggravating Circumstances :

(1) The offences relating to the commission of heinous crimes like murder, rape, armed dacoity, kidnapping etc. by the accused with a prior record of conviction for capital felony or offences committed by the person having a substantial history of serious assaults and criminal convictions.

(2) The offence was committed while the offender was engaged in the commission of another serious offence.

(3) The offence was committed with the intention to create a fear psychosis in the public at large and was committed in a public place by a weapon or device which clearly could be hazardous to the life of more than one person.

(4) The offence of murder was committed for ransom or like offences to receive money or monetary benefits.

(5) Hired killings.



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(6) *The offence was committed outrageously for want only while involving inhumane treatment and torture to the victim.*

(7) *The offence was committed by a person while in lawful custody.*

(8) *The murder or the offence was committed to prevent a person lawfully carrying out his duty like arrest or custody in a place of lawful confinement of himself or another. For instance, murder is of a person who had acted in lawful discharge of his duty under Section 43 Cr.P.C.*

(9) *When the crime is enormous in proportion like making an attempt of murder of the entire family or members of a particular community.*

(10) *When the victim is innocent, helpless or a person relies upon the trust of relationship and social norms, like a child, helpless woman, a daughter or a niece staying with a father/uncle and is inflicted with the crime by such a trusted person.*

(11) *When murder is committed for a motive which evidences total depravity and meanness.*

(12) *When there is a cold blooded murder*



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(13) The crime is committed so brutally that it pricks or shocks not only the judicial conscience but even the conscience of the society.”

45.At the same time, the mitigating circumstances to reduce a death sentence are as follows:

“Mitigating Circumstances :

(1) The manner and circumstances in and under which the offence was committed, for example, extreme mental or emotional disturbance or extreme provocation in contradistinction to all these situations in normal course.

(2) The age of the accused is a relevant consideration but not a determinative factor by itself.

(3) The chances of the accused of not indulging in commission of the crime again and the probability of the accused being reformed and rehabilitated.

(4) The condition of the accused shows that he was mentally defective and the defect impaired his



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capacity to appreciate the circumstances of his criminal conduct.

(5) The circumstances which, in normal course of life, would render such a behavior possible and could have the effect of giving rise to mental imbalance in that given situation like persistent harassment or, in fact, leading to such a peak of human behavior that, in the facts and circumstances of the case, the accused believed that he was morally justified in committing the offence.

(6) Where the Court upon proper appreciation of evidence is of the view that the crime was not committed in a pre-ordained manner and that the death resulted in the course of commission of another crime and that there was a possibility of it being construed as consequences to the commission of the primary crime.

(7) Where it is absolutely unsafe to rely upon the testimony of a sole eye-witness though prosecution has brought home the guilt of the accused.”

46. Therefore, while determining questions relating to the



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sentence, the Court must follow certain principles, which serve as the guiding star alongside the other considerations in deciding whether to impose the death sentence. The principles are as follows:

“Principles:

(1) The Court has to apply the test to determine, if it was the “rarest of rare” case for imposition of a death sentence.

(2) In the opinion of the Court, imposition of any other punishment, i.e., life imprisonment would be completely inadequate and would not meet the ends of justice.

(3) Life imprisonment is the rule and death sentence is an exception.

(4) The option to impose sentence of imprisonment for life cannot be cautiously exercised having regard to the nature and circumstances of the crime and all relevant considerations.

(5) The method (planned or otherwise) and the manner (extent of brutality and inhumanity, etc.) in which the crime was committed and the



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circumstances leading to commission of such heinous crime.”

47.Guided by the above principles, the Court must assess whether the accused is liable to be punished with the death penalty. The present case, however, is not one of the "rarest of rare" cases where the Court would find that life imprisonment is entirely inadequate, even if the accused is held guilty of the offences charged.

48.Whenever the nature of the offence, the manner in which it was committed, its attendant circumstances, and the motive and status of the victim undoubtedly bring the case within the ambit of "rarest of rare" cases, and the Court finds that the imposition of life imprisonment would result in inadequate punishment, the Court may award the death penalty. In cases that fall under exceptions to the "rarest of rare" category, the Court may exercise judicial



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discretion by imposing life imprisonment in place of the death sentence. Furthermore, every punishment imposed affects not only the accused but also society as a whole.

49.The Hon'ble Supreme Court of India has also issued practical guidelines for collecting mitigating circumstances to consider converting a death sentence to life imprisonment in the case of *Manoj and Others vs. State of Madhya Pradesh [(2023) 2 SCC 353]*, wherein it was held as follows:

“Practical guidelines to collect mitigating circumstances

248. There is urgent need to ensure that mitigating circumstances are considered at the trial stage, to avoid slipping into a retributive response to the brutality of the crime, as is noticeably the situation in a majority of cases reaching the appellate stage.

249. To do this, the trial court must elicit information from the accused and the State, both. The State, must-for an offence carrying capital punishment



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-at the appropriate stage, produce material which is preferably collected beforehand, before the Sessions Court disclosing psychiatric and psychological evaluation of the accused. This will help establish proximity (in terms of timeline), to the accused person's frame of mind (or mental illness, if any) at the time of committing the crime and offer guidance on mitigating factors (1), (5), b (6) and (7) spelled out in Bachan Singh Even for the other factors of (3) and (4)-an onus placed squarely on the State conducting this form of psychiatric and psychological evaluation close on the heels of commission of the offence, will provide a baseline for the appellate courts to use for comparison te. to evaluate the progress of the accused towards reformation, achieved during the incarnation period.

250. Next, the State, must in a time-bound manner; collect additional information pertaining to the accused. An illustrative, but not exhaustive list is as follows:

(a) Age

(b) Early family background (siblings, protection of parents, any d history of violence or



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(c) *Present family background (surviving family members, whether married, has children, etc.)*

(d) *Type and level of education*

(e) *Socio-economic background (including conditions of poverty or deprivation, if any)*

(f) *Criminal antecedents (details of offence and whether convicted, sentence served, if any)*

(g) *Income and the kind of employment (whether none, or temporary or permanent, etc.);*

(h) *Other factors such as history of unstable social behaviour, or mental or psychological ailment(s), alienation of the individual (with reasons, if any), etc.*

This information should mandatorily be available social behaviour, or mental or psychological ailment(s), alienation of the individual (with reasons, if any), etc.”

50. Therefore, the above information must mandatorily be



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made available to the Trial Court at the sentencing stage. The accused should be given the opportunity to produce evidence in rebuttal, establishing all mitigating circumstances.

51.Although the Trial Court had stated the aggravating factors for imposing the death sentence, it failed to collect mitigating circumstances from both the accused and the prosecution. Further, information regarding the convict's conduct in jail, work undertaken (if any), activities engaged in, and other relevant details should be obtained in the form of a report from the appropriate jail authorities, including reports from the Probation and Welfare Officer and the Superintendent of Prison.

52.Therefore, this Court called for reports from the jail authorities and the Medical Officer. The Psychologist of the Central Prison, Palayamkottai, Tirunelveli District, submitted a report before



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this Court, and the report is as follows:

*“PSYCHOLOGICAL REPORT OF PRISONER
TPDA 8688 PAUL ESAKKI S/O ARUMUGAM
CENTRAL PRISON PALAYAMKOTTAI?????*

The above said Detenue Prisoner Paul Esakki S/O Arumugam (TPDA 8688), aged 50 years was admitted in Central Prison Palayamkottai as a Remand Prisoner on 14.02.2025 (RP 6791) u/s 3(d), 5(g). 6 & 7 of POCSO Act, 351(3) BNS. On 16.03.2025 he was converted into Detenue Prisoner (TPDA 8688). No significant psychological complaints were observed during his pre conviction tenure and he appeared to be well adapted to the prison environment. He was obedient, abiding by prison rules and regulations. After his conviction, he was lodged in Central Prison Dispensary from 24.12.2025 to 31.12.2025 for vigilant observation of any psychological distress and emotional disturbances. He was reviewed periodically and no such complaints were observed. The prisoner was found to be psychologically stable. He is introvert by personality and his intelligence is marked at average intellectual capacity. In general his behavior is positive, well disciplined and co-operative with prison officials. No significant psychological illness or complaints are



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observed at present, in his post conviction tenure.”

53.Further, the Medical Officer of the Central Prison, Palayamkottai, also submitted a report, wherein it was stated as follows:

“The above said Detenue Prisoner Paul Esakki S/O Arumugam (TPDA 8688), aged 50 years was admitted in Central Prison Palayamkottai as a Remand Prisoner on 14.02.2025 (RP 6791) u/s 3(d), 5(g), 6 & 7 of POCSO Act, 351(3) BNS. On 16.03.2025 he was converted into Detenue Prisoner (TPDA 8688). No significant psychological complaints were observed during his pre conviction tenure and he appeared to be well adapted to the prison environment. He was obedient, abiding by prison rules and regulations. After his conviction, he was lodged in Central Prison Dispensary from 24.12.2025 to 31.12.2025 for vigilant observation of any psychological distress and emotional disturbances. He was reviewed periodically and no such



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complaints were observed. The prisoner was found to be psychologically stable. He is introvert by personality and his intelligence is marked at average intellectual capacity. In general his behaviour is positive, well disciplined and co-operative with prison officials. No significant psychological illness or complaints are observed at present, in his post conviction tenure. At present the general condition of the prisoner is normal both physically and mentally.”

54.Further, considering the above facts and circumstances, as well as the age of the accused, this Court finds that the imposition of the death sentence should be modified to a sentence of life imprisonment.

55.In view of the above, the conviction and sentence imposed on the accused in Special C.C.No.208 of 2025, on the file of the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli, for the offence punishable under Sections 5(n), 5(l), 5(j)



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(ii) read with Section 6 of the POCSO Act, to death is set aside. The accused is hereby convicted and sentenced to undergo life imprisonment for the offence punishable under Sections 5(n), 5(l), 5(j)(ii) read with Section 6 of the POCSO Act, and the fine amount already imposed against the accused shall stand confirmed.

56.In all other aspects, the conviction and sentence imposed on the accused in Special C.C.No.208 of 2025, on the file of the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli, for the offence punishable under Section 351(2) of the BNS Act, are confirmed.

57.Further, the salary of the accused shall be transferred to a separate account opened in the name of the minor victim girl. The mother of the victim is permitted to withdraw the interest once every three months until the victim attains majority. The State shall bear



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the educational expenses of the victim, and her studies shall continue without any interference.

58.With the above modifications, CrI.A(MD) No. 278 of 2026 is partly allowed and R.T(MD) No. 1 of 2026 is disposed of. The sentences of imprisonment shall run concurrently. The period of imprisonment already undergone by the accused shall be set off under Section 428 of the Cr.P.C.

**[G.K.I.J.] & [R.P.J.,]
24.02.2026**

NCC :Yes/No
Index :Yes/No
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To

1.The Sessions Judge, Special Court for
POCSO Act Cases,
Tirunelveli.

2.The Inspector of Police,
All Women Police Station-Nanguneri,
Tirunelveli District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.K. ILANTHIRAIYAN, J.
AND
R. POORNIMA, J.

ps

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24.02.2026