

Crl.A(MD)No.511 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 09.07.2026

Pronounced on : 29 .07.2026

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

Crl.A(MD)No.511 of 2022

Arumugam

... Appellant

Vs.

The Inspector of Police,
All Women Police Station,
Kuzhithurai,
Kanyakumari District.

...Respondent

PRAYER: Criminal Appeal filed under Section 374 of the Criminal Procedure Code to call for the entire records connected to the Judgment in S.C.No.41 of 2013 on the file of the Fast Track Mahila Judge, Nagercoil Kanyakumari District, dated 27.07.2015 and set aside the same.



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For Appellant : Mr.S.Srikanth

for M.Suriya Bagavandass

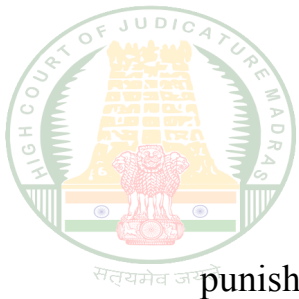
For Respondent : Mr.G.Karuppasamy Pandiyan,

Counsel for the State of Tamil Nadu

JUDGMENT

(Judgment of this Court was delivered by **R.POORNIMA, J.**)

This Criminal Appeal is filed against the conviction and sentence passed against the appellant / Sole Accused in the judgment dated 27.07.2015 passed by the Fast Track Mahila Judge, Nagercoil in S.C.No.41 of 2013 by convicting and sentencing the appellant for the offence punishable under Sections 506(i) of IPC and under Sections 4 and 5(n) r/w 6 of Protection of Children from Sexual Offences Act, 2012 and sentenced him to undergo two years simple imprisonment and to pay a fine of Rs.10,000/- for the offences punishable under Section 506(i) of IPC and sentenced him to undergo life imprisonment and to pay a fine of Rs.20,000/- for the offences punishable under Section 4 of Protection of Children from Sexual Offences Act, 2012, and sentenced him to undergo life imprisonment and to pay a fine of Rs.20,000/- for the offences



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punishable under Section 5(n) r/w 6 of Protection of Children from Sexual Offences Act, 2012. If the fine amounts are not paid by accused, he shall undergo six months simple imprisonment each concurrently. All sentences shall run concurrently.

2. In furtherance of the conviction, the Trial Court had considering the facts and circumstances of the case, the grave nature of the offence and the physical and emotional injuries suffered by the victim child, granted a sum of Rs.1,00,000/- (Rupees One Lakh Only) as compensation under Rule 7 of POCSO Rules, 2012 and directed the Tamil Nadu Government to deposit the awarded compensation in the name of the victim child in an interest bearing account in any one of the nationalized banks within a period of 30 days from the date of receipt of the copy of the impugned judgment. Further, the mother of the victim child was permitted to withdraw the interest from the deposited compensation every six months once and utilise the same towards to the wellbeing of the victim child.

3. The case of the prosecution in brief is as follows:

(a) As per the charges framed against the accused, the accused



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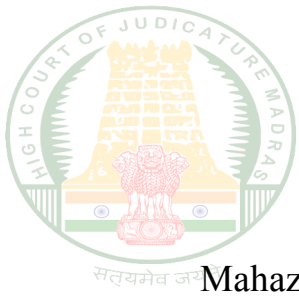
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committed sexual assault against his own minor daughter xxxx for the past three years. The accused was in the habit of waking up the victim girl, who used to sleep with her mother and take her to his room, made her to watch obscene movies in CD and repeatedly assaulted her sexually by committing penetrative sexual assault .

(b) The complaint was lodged by P.W.3 Thiru.Abdul Hakim, who is the President of Child Helpline, Nagercoil, Kanyakumari District to the Inspector of Police, Kuzhithurai, Kanyakumari District on 08.01.2013 narrating the incident in complaint by contending that the victim was brought by Child Help Line and during enquiry he came to know that the accused had sexually assaulted the minor girl for several days and that was also known to her mother (P.W.2).

(c)The complaint Ex.P1 was received by P.W.23 Thiru.Dharmalingam, Inspector of Police, Marthandam who registered FIR (Ex.P10) in Crime No.14 of 2013 for the offence under Sections 376 IPC and 4 of POCSO Act and forwarded the same to the All Women Police Station, Marthandam.

(d) P.W.24 Tmt.Uma, Inspector of Police, after receipt of the FIR took up the case for investigation. On 09.01.2013, at about 08.30 hours, she went to the place of occurrence and prepared Observation



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Mahazar (Ex.P2), Rough Sketch (Ex.P11). She examined the victim girl xxx (P.W.1), her mother (P.W.2), Mr.Abdul Hakkim, President of the Child Welfare Committee (P.W.3) and other witnesses Kannan (P.W.4), Rajkumar (P.W.5), Kumar, Santhakumari, Mekala (P.W.8), Dr.Pradeep (P.W.17) and recorded their statements.

(e) On 09.01.2013 at about 14.00 hours, she arrested the accused and recorded his confession statement. Based on the same, recovered T.V (M.O.1), CD Player - 1 number (M.O.2), Obscene movies CD – 4 numbers (M.O.3 series) and thereafter, sent him for remand. Thereafter, she sent a requisition letter (Ex.P.12) to the Judicial Magistrate to send the accused for medical check up.

(f) Thereafter, she sent the victim girl for medical examination. P.W.22 Dr.Deepa, examined the victim girl on 09.01.2013 at about 11.45 p.m., and during enquiry she was informed by the victim Girl that her father had repeatedly made sexual assault on her under threat. During examination she found that her hymen were ruptured and vaginal part admitted two fingers. The accident in register-cum-wound certificate issued by her was marked as Ex.P.9.

(g) Subsequently, the accused was sent to Government Hospital for medical examination. Dr.Rajesh (P.W.21) examined the



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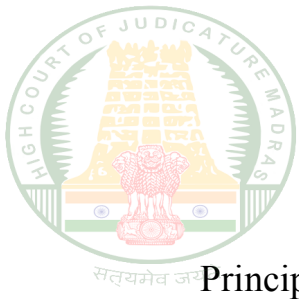
accused and issued medical certificate (Ex.P.7) opined that there is nothing to suggest that he is impotent. He also examined the victim girl and issued age certificate (Ex.P.8).

(h) Thereafter the investigating officer examined the other witnesses who accompanied the victim and the accused. She also examined the Doctors who examined the victim and the accused.

(i) Thereafter, on 26.02.2013, she altered the offence from Sections 376 and Sections 4 of Protection of Children from Sexual Offences Act, 2012 to under Sections 376, 506(ii) IPC and Sections 4, 5(n) r/w 6 of Protection of Children from Sexual Offences Act, 2012, and filed the alteration report (Ex.P.14) and thereafter, she completed the investigation and filed a final report against the accused.

4. On receipt of the final report, the Judicial Magistrate, Kuzhithurai, took up the case in P.R.C.No.5 of 2013 and issued summons to the accused. After the appearance of the accused, copies of the entire records were furnished to him at free of cost under Section 207 Cr.P.C.

5. Since the offence was exclusively triable by the Sessions Court, the learned Judicial Magistrate committed the case records to the



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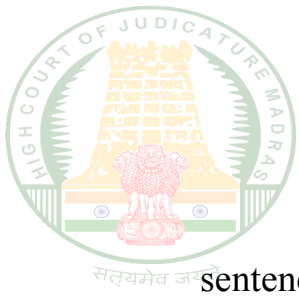
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Principal District and Sessions Court, Nagercoil, for further action. The Principal District Judge, Nagercoil, received the case records, numbered it as S.C.No.41 of 2013 and made over to the Sessions Judge, Fast Track Mahila Court, Nagercoil.

6. On receipt of the records, Sessions Judge, Fast Track Mahila Court, Nagercoil took up the case for disposal according to law, framed charges against accused for the offences under Sections 376, 506(ii) IPC and Sections 4, 5(n) r/w 6 of Protection of Children from Sexual Offences Act, 2012. The charges were read over and explained to the accused. The accused denied the charges and claimed to be tried. Therefore, the case was posted for trial.

7. On the side of the prosecution, P.W.1 to P.W.24 were examined and Ex.P1 to Ex.P14 and M.O.1 to M.O.3 were marked. Neither oral nor documentary evidence was adduced by the accused.

8. After a full trial, the trial Court convicted the accused for the offence punishable under Section 506(i) of IPC, Sections 4 and 5(n) r/w 6 of Protection of Children from Sexual Offences Act, 2012, and



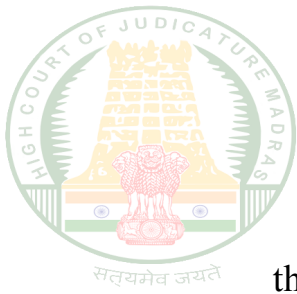
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sented him to undergo two years simple imprisonment and to pay a fine of Rs.10,000/- for the offences punishable under Section 506(i) of IPC and sentenced him to undergo life imprisonment and to pay a fine of Rs.20,000/- for the offences punishable under Section 4 of Protection of Children from Sexual Offences Act, 2012, and sentenced him to undergo life imprisonment and to pay a fine of Rs.20,000/- for the offences punishable under Section 5(n) r/w 6 of Protection of Children from Sexual Offences Act, 2012 and in default to pay the fine amounts, to undergo six months simple imprisonment. All sentences were ordered to run concurrently, against which, the present Criminal Appeal has been filed.

9. Mr.S.Srikanth, learned counsel appearing for the appellant assailing the judgment of conviction and sentence made the following submissions:-

1) The evidence of the victim girl does not inspire confidence, though it was alleged that the victim girl was sexually assaulted for the period of 4 years but it shows that she maintained a stoic silence. This reveals that the evidence of the victim girl run contrary to the sense of prudent man. There is nothing to support the evidence of P.W.1/victim, P.W.2/mother of



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the victim not stated anything about the occurrence.

2) PW-3 is the District Child Welfare Officer who is the author of the complaint. But he has neither examined the victim girl nor received any complaint from victim girl or from any source. Further one Shanthakumari alleged to have been informed about the occurrence to PW-3, but that Shanthakumari has not been examined by the prosecution.

3) The very genesis of the case emerged from the hospital where the victim girl came up for treatment and informed about the occurrence to a Nurse and that the Nurse conveyed the same to the Doctor and thereafter, that information has been passed on to the District Collector, from whom the occurrence had come to surface. However, PW-3 claimed that he is the author of the complaint and the complaint came to be registered as FIR without even examining the victim girl.

4) The evidence of victim girl suffers from serious improbability and incurable infirmity.

Hence, he prayed to set aside the judgment of the trial Court and to acquit the accused from all charges.



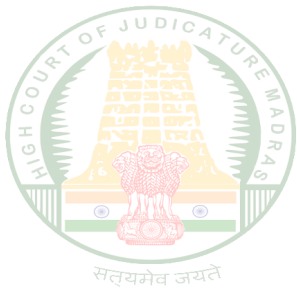
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10. The learned Counsel for the State of Tamil Nadu appearing for the Respondent argued that the accused is none other than the father of the victim and she is under his custody, he committed penetrative sexual assault on the victim child repeatedly for almost 4 years taking advantage of his dominant position. The victim girl categorically stated before the Court in her evidence that she was sexually assaulted by her father and she further stated that disgusting to say that the accused is her father and wants to punish him with maximum sentence. The medical evidence also supported her evidence and sexual offences normally corroboration is impossible. The mother also supported the victim girl's version. The judgment of the trial Court is proper and there is no valid ground in this Criminal Appeal and therefore, he prays to dismiss the Criminal Appeal.

11. Heard the learned counsel on either side and perused the materials available on record.

12. Now this Court has to decide whether the prosecution has proved its case beyond reasonable doubt by cogent evidence and whether the trial Court is right in convicting the accused.

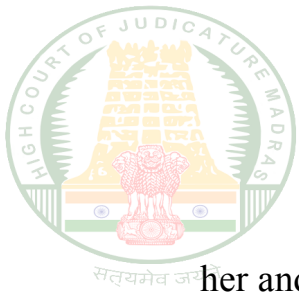


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13.We carefully analyzed the entire records and the evidence.

14.In this case, the victim girl was examined as P.W.1 and her testimony is crucial as she is the principal witness to the occurrence. She deposed that the accused is her father and P.W.2 is her mother. She used to sleep beside her mother in a room. According to her, the accused used to return home in an inebriated condition, wake her up forcibly, take her to his room and made her nude. Thereafter, he played obscene videos on a TV through DVD/CD player and compel her to watch, touched her inappropriately and repeatedly commit penetrative sexual assault upon on her. He committed the same for the past 4 years. He also threatened her not to reveal the same to anybody. She further stated that she developed skin problems and sought medical treatment and a Nurse at the hospital suspected that something was abnormal and enquired her, about the cause of her condition, she narrated her that she was subjected to sexual assault by her father. Thereafter, the Doctor at the hospital also enquired with her regarding the allegations. Upon confirming the occurrence, the Doctor informed the same to the District Collector, who, inturn, informed the same to the Child Welfare Officer. The Child Welfare Officer examined



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her and advised to give a complaint was lodged with Police. Accordingly a complaint came to be registered. She further stated that she felt disgusted to say that accused was her own father and prayed that he should be punished with maximum sentence.

15. Her evidence is clear, cogent, consistent and trustworthy. During cross examination nothing adverse was elicited from her nor was anything brought on record in favor of the accused.

16. The evidence of P.W.1 was corroborated by P.W.2 who is the mother of the victim. She further stated that the accused threatened her with dire consequences by saying that if she reveals the same to anyone he would kill her. Her version was supported by PW3.

17. PW3, the President of Child Helpline deposed that he had received a phone call from the coordinator of child line on 08.01.2013 informing him that the government hospitals had conveyed information that the victim girl has been subjected to sexual assault. Thereafter the victim Child was brought to his office. He conducted enquiry in the presence of Probation Officer and District Child Protection Officer during



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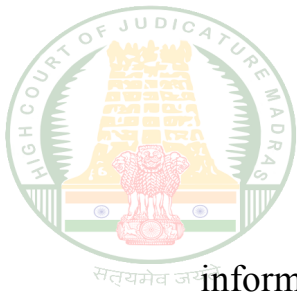
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which the victim child gave her statement. Based on her statement written complaint was obtained. He thereafter informed the same to the District Collector and lodged the a complaint (Ex.P.1). He further stated the victim girl informed that that her mother was aware of the offence committed by the accused. When the same was questioned by her mother, she was beaten and threatened by her father .

18. P.W.4 and P.W.5 have deposed about the preparation of observation mahazar and rough sketch and P.W.7 witness for the confession has not supported the prosecution case.

19. P.W.8 Tmt.Megala, Child Line Sub Inspector and P.W.9 Selvi.Anitha, Member of Child Line categorically stated that they had examined the victim girl and that she had clearly stated that the accused committed sexual assault on her for the past 4 years. He induced her to watch obscene movies in the CD and committed penetrative sexual assault

20. The evidence of P.W.22 Dr.Deepa clearly supported the prosecution case. She clearly stated that her hymen was not intact and the vagina admitted two fingers. She also clearly deposed that the victim girl



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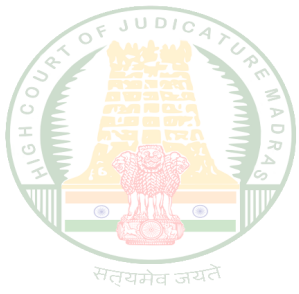
informed that she was sexually assaulted by her father.

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21. P.W.21 Dr.Rajesh, who examined the accused categorically stated that the accused is not impotent.

22. The evidence of victim girl is clear, cogent and without any embellishment. The defence has not established the existence of any previous enmity that would give rise to motive for falsely implicating the accused in the commission of the offence.

23. It is true that there was a delay in lodging the complaint. However in cases of this nature where the victim was under the control of the accused who is none other than her own father and occupied a dominant position over her, such delay is natural and understandable. Being a minor child, the victim could not have been expected to come forward to lodge a complaint against her own father who had instilled fear in her by intimidation and subjecting her to threat. Therefore, the delay in lodging the complaint has been satisfactorily explained and is not fatal to the prosecution case.



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24. In this regard, we rely upon the judgment in ***Satpal Singh vs. State of Haryana***, reported in **2010 (8) SCC 714** in which the Hon'ble Supreme Court has held as follows:

“16. However, no straight jacket formula can be laid down in this regard. In case of sexual offences, the criteria may be different altogether. As honour of the family is involved, its members have to decide whether to take the matter to the court or not. In such a fact-situation, near relations of the prosecutrix may take time as to what course of action should be adopted. Thus, delay is bound to occur. This Court has always taken judicial notice of the fact that "ordinarily the family of the victim would not intend to get a stigma attached to the victim. Delay in lodging the First Information Report in a case of this nature is a normal phenomenon"

Therefore, we hold that the delay in reporting the case is not fatal to the prosecution's case.

25. In this case the victim, who had developed a skin infection, was taken to the government Hospital for treatment. During the course of her examination, a nurse enquired about her condition, where upon the victim disclosed the incident. After learning about the disclosure,



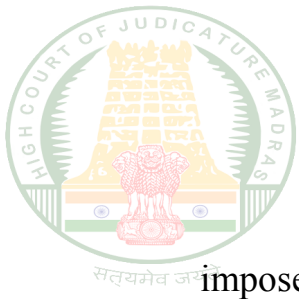
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the attending doctor informed the child helpline. The officials of the child helpline counselled the victim and facilitated the lodging of the complaint with police.

26. Further, there is no record available to prove that the victim is school going child. Therefore, Dr.Rajesh (P.W.21) upon clinical examination assessed the age and produced the age assessment certificate opining that the age of the victim was between 16 to 18. The victim girl categorically stated that sexual assault was made on her for the past 4 years, which would infer that she had been subjected to penetrative sexual assault from the age 12.

27. It is well settled that in cases of sexual assault, the sole testimony of the victim, if found to be credible and trustworthy, is sufficient to sustain a conviction even in the absence of corroborative medical evidence. In the present case, however, the medical evidence clearly corroborates the testimony of the victim. The victim girl, examined as P.W.1, categorically deposed that the accused repeatedly committed sexual assault upon her. She further stated that she felt disgusted to even refer to the accused as her father and earnestly requested the Court to



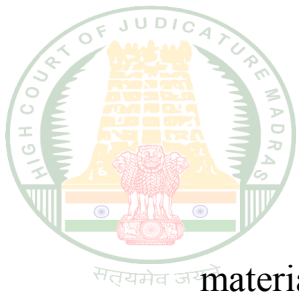
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impose the maximum punishment upon him. The prosecution has also established that, during the course of investigation, the police recovered a television, a CD player, and four obscene video CDs from the house of the accused. The said materials are incriminating in nature and lend further credence and support to the prosecution case. The medical records are also consistent and corroborates the prosecution version.

28. Apart from the other charges, the appellant had also been charged for offence under Section 5(n) of the POCSO Act and the prosecution by cogent evidence oral, documentary and medical had established the foundational facts beyond reasonable doubt. The appellant has failed to rebut the presumption either by direct or indirect evidence.

29. Now coming to the facts of the case it is indeed shocking and reprehensible that accused, being the biological father of the victim, betrayed the trust reposed in him and subjected his own daughter to such heinous acts. The offence is of the gravest nature and warrant, the imposition of maximum prescribed under law. We are convinced that the prosecution in all probability, proved the guilt of the accused beyond all reasonable doubt. The trial Court after considering the evidence and

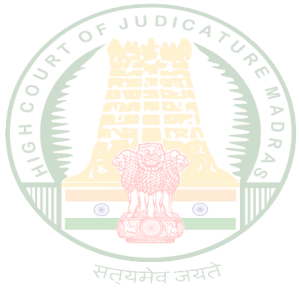


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materials held the accused guilty for the offence punishable under Section 506(ii) of IPC and Sections 4, 5(n) r/w 6 of Protection of Children from Sexual Offences Act, 2012. The conviction and sentence imposed are proper and do not warrant interference by this Court. Accordingly, the appeal is liable to be dismissed.

30. Before parting, we notice that only a sum of Rs.1,00,000/- has been granted as compensation. We are of the opinion that the amount is very meagre and grossly inadequate to compensate the physical and emotional injuries suffered by the victim child at the very hands of her own father. Having said thus, it would be useful to turn to ***Bhanei Prasad v. State of H.P. [2025 SCC OnLine SC 1636]*** wherein the Supreme Court had granted a compensation of Rs.10,50,000/- to a victim child who suffered incestuous aggravated penetrative sexual assault under the very hands of her very own father. Hence, we find that, incestuous sexual violence committed by a parent is a distinct category of offence and therefore, in light of the exceptional circumstance, we are inclined to enhance the compensation payable to the victim child.



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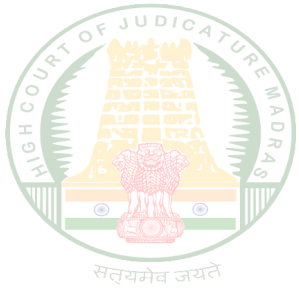
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31. In result, this Criminal Appeal is dismissed and the judgment dated 27.07.2015 passed in S.C. No. 41 of 2023 on the file of the Fast Track Mahila Judge, Nagercoil, Kanyakumari District is confirmed. The findings in respect of the award of victim compensation alone, is hereby modified and as per G.O.(Ms)No.33, Department of Social Welfare and Nutritious Meal Programme dated 03.10.2020 and G.O.(Ms)No.32, Department of Social Welfare and Women Empowerment dated 10.07.2021, the Commissioner/Director of Social Defence is consequently directed to disburse a compensation of Rs.5,00,000/-, to the victim child, after adjusting the compensation of Rs.1,00,000/- (Rupees One Lakh Only) if already paid to the victim child, within a period of thirty (30) days from the date of receipt of a copy of this judgment. The District Legal Services Authority, Kanyakumari District is directed to ensure that the compensation amount is paid to the victim child.

(A.D.J.C., J.) & (R.P., J.)
29.07.2026

Index : Yes / No
NCC : Yes / No
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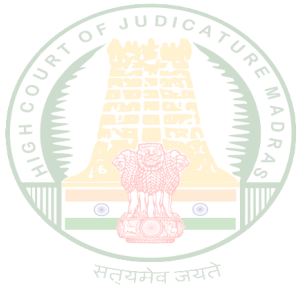
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- 1.The Fast Track Mahila Judge,
Nagercoil,
Kanyakumari District.
- 2.The Inspector of Police,
All Women Police Station,
Kuzhithurai,
Kanyakumari District.
- 3.The Counsel for the State of Tamil Nadu
Madurai Bench of Madras High Court,
Madurai.
- 4.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.

Copy to

- 1.The Commissioner/Director of Social Defence
No. 300, Purasawalkam High Road Kellys,
Chennai - 600 010.
- 2.The District Legal Services Authority,
Kanyakumari District.



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Judgment in
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