



Crl.A.(MD).No.396/2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 16.02.2026

CORAM

THE HONOURABLE MRS. JUSTICE N.MALA

Crl.A.(MD).No.396 of 2021

Murugan

..

Appellant / Sole Accused

Versus

State through
The Inspector of Police,
All Women Police Station,
Dindigul,
Dindigul District.
(In Crime No.13 of 2018)

..

Respondent / Complainant

Prayer:- Criminal Appeal filed under Section 374 of Cr.P.C., to call for the entire records connected with the judgment rendered by the Sessions Judge, Fast Track Mahila Court, Dindigul in Spl.SC.No.49 of 2018 dated 05.05.2021 and set aside the same and consequently acquit the appellant.

For Appellant : Mr.S.N.Arunkumar

For Respondent : Mr.A.Thiruvadikumar, APP



Crl.A.(MD).No.396/2021

WEB COPY

JUDGMENT

(1)The above Criminal Appeal is preferred by the appellant / accused against the judgment of conviction and sentence dated 05.05.2021, made in Spl.SC.No.49 of 2018, by the learned Sessions Judge, Fast Track Mahila Court, Dindigul, convicting and sentencing the appellant/accused for the offences under Section 5(l)(m) r/w 6 of POCSO Act and under Section 506(i) of IPC.

(2)The factual scenario as unfolded during the course of trial is as follows:-

(a) The case of the prosecution, in brief was that, the victim girl was aged 12 years at the time of occurrence. She was studying VIII Standard at Government Girls Higher Secondary School, Dindigul and was residing along with her parents in Dindigul. The accused was temporarily working in the Railways as a gate man in a level crossing. The accused was known to the victim and her family since it was the usual practice of the accused to visit the garden of the Defacto complainant, for bathing and for taking rest. Due to this, a close relationship developed between the accused and the family of the defacto complainant. On 02.09.2018 at about 05.30 p.m., when



WEB COPY



Crl.A.(MD).No.396/2021

the victim girl went to the grocery shop to purchase sugar and returning to her house by crossing the railway gate, the accused called her, and forcibly pulled her into his hut and committed aggravated penetrative sexual assault on her. The accused criminally intimidated the victim girl by stating that if she disclosed the crime to her family, he would kill her father and brother. The victim therefore did not disclose the crime to anyone. Again on 03.09.2018, at about 05.30 p.m., when the victim girl was returning to her house from the School, the accused committed aggravated penetrative sexual assault on her. Thereafter, PW2, the mother of the victim, lodged a complaint before the All Women Police Station, Dindigul on 09.09.2018, under Ex.P2.

(b)Based on the complaint of PW2, the FIR came to be registered under Ex.P.7, in Crime No.13/2018, on 09.09.2018. PW.18-M/s.Jasmin Mumthaj, Inspector of Police, took up the investigation and after examination of witnesses, arrested the appellant/accused on 11.09.2018. Thereafter, on completion of other formalities like recording the 164[5] Cr.P.C., statements, the statement of the victim



WEB COPY



Crl.A.(MD).No.396/2021

girl [PW1], P.W.18 filed the Final Report, on 08.10.2018, for the offences under Sections 5(l), 5(m) and 6 of POCSO Act.

(c) The Final Report was taken on file on 16.10.2018 by the Trial Court in Spl.SC.No.49/2018. On 20.11.2018, the charges were framed against the appellant/accused for the offences under Section 5(l)(m) r/w 6 of POCSO Act and Section 506(i) of IPC. The appellant/accused denied the charges and pleaded not guilty.

(3)The prosecution in order to bring home the guilt of the appellant/accused, examined PW1 to PW18 and filed Exs.P1 to P11. On the side of the accused, no evidence was adduced.

(4)The Trial Court, on completion of trial, found the appellant/accused guilty of the aforesaid offences and convicted and sentenced him as follows:-

<i>Sl.No.</i>	<i>Conviction Under Section</i>	<i>Sentence Awarded</i>
1	5(l)(m) r/w 6 of POCSO Act	To undergo 10 years RI and to pay a fine of Rs.5,000/-, in default, to undergo 6 month SI.
2	506(i) of IPC	To undergo 1 years RI. <i>The Sentences were ordered to run concurrently.</i>



Crl.A.(MD).No.396/2021

(5) Aggrieved by the aforesaid conviction and sentence, the appellant has preferred the above Criminal Appeal for the aforesaid relief.

(6) The respondent filed written submissions. The respondent stated that the evidence of P.W.1 is clear and trustworthy and therefore no corroboration was needed. The respondent, however, stated that the evidence of the victim was corroborated by the evidence of P.W.17 the Doctor, Prema, who issued Ex.P.6 series. The respondent stated that the version of the accused that the case was falsely foisted against him because of certain family dispute with regard to money transactions in which P.W.3 and P.W.4 and one Jayapaul assaulted him was untenable. The respondent stated that in any event, mere assault of the accused would not be sufficient to hold that the prosecution version was false. The respondent stated that the crucial factor in the present case was that though the complaint came to be lodged after six days, the accused was produced before the police by the villagers. The respondent further stated that the occurrence was known to the entire village. The respondent also stated that in the absence of any perversity in the judgment of the trial court no interference is warranted.



Crl.A.(MD).No.396/2021

(7)The learned counsel for the appellant submitted that the case was foisted against the accused due to previous enmity over certain money transactions.

The learned counsel further submitted that non-examination of the Gate Keeper, who was listed as one of the witnesses along with others in the charge sheet filed by the investigating officer was fatal to the prosecution's case, since P.W.1, the victim clearly deposed during the cross-examination about the presence of the Gate Keeper in the alleged place of occurrence. The learned counsel further submitted that the various inconsistencies and contradictions in the evidence of the prosecution witnesses discredited the prosecution case and hence, the trial court ought to have rejected the prosecution's case. The learned counsel therefore prayed that the judgment of conviction and sentence be set aside and the accused be acquitted.

(8)The learned Additional Public Prosecutor, after taking this Court to the facts of the case submitted that the foundational facts were proved by the prosecution and therefore, the burden shifted to the accused under Section 29 of POCSO Act and in the absence of rebuttal, the trial court cannot be faulted for convicting the accused. The learned Additional Public Prosecutor, also submitted that the Trial Court analysed the evidence properly and rendered



Crl.A.(MD).No.396/2021

cogent and logical reasons for its findings. The learned Additional Public Prosecutor, further submitted that the judgment of the Trial Court calls for no interference since it was based on proper appreciation of the victim's evidence corroborated by the medical evidence of PW17 under Ex.P6. The learned Additional Public Prosecutor, therefore prayed that the appeal be dismissed as meritless.

(9) Heard both sides and perused the materials placed on record, including the impugned judgment of the Trial Court.

(10)The prosecution, in order to establish its case, has examined 18 witnesses. PW1-Victim girl, PW2- Muthupandi, victim's mother/defacto complainant. PW3-Kovilyovon, Victim's father. PW4-Thangapandi, is the uncle of P.W.1. PW5-Santhi, is relative of the accused. PW6-Indira has residence in the village, where the accused and the victim are residing. PW7-Meenakshi, is the Aunt of the victim, PW8-Muthulakshmi, is the aunt of the victim. PW9-is the aunt of the victim. PW10-Vidhya is neighbour of the victim. PW11-Santhi is neighbour of the victim. PW12-Dr.Santhi, Radiologist, who conducted radiology on the victim and issued radiologist report under Ex.P.4. P.W.13-Parameswari- School Headmistress, who issued



Crl.A.(MD).No.396/2021

the School Certificate to the victim/PW1 under Ex.P5. P.W.14- Sivakami –

Head Constable, who brought the accused to the hospital for medical examination. P.W.15-Pragadeesh – Gr.I.P.C., who brought the accused to the hospital for medical examination. P.W.16-Mathubala – Gr.I.P.C. who brought the victim for the medical examination. P.W.17-Dr.K.Prema, who conducted medical examination on the victim and issued Ex.P6-Certificate of examination for sexual offences, accident register, result declaration form and medico legal case lab report and ultrasonography of abdomen of the victim. P.W.18-Jasmin Mumthaj was the Investigating Officer at the relevant time who arrested the accused and filed the Final Report for the offences u/s.5(1) (m) r/w 6 of POCSO Act.

(11)The case of the prosecution is that in the evening on 02.09.2018, when the victim girl was returning home after purchasing sugar from the grocery shop, the accused, who was manning the railway crossing gate called the victim girl, forcibly pulled her into his hut and committed aggravated penetrative sexual assault by threatening her that he would kill her brother and father, if she disclosed it to anyone. The victim girl therefore, did not disclose the crime to anyone. Thereafter, on 03.09.2018, again at about 5.30



Crl.A.(MD).No.396/2021

p.m when she was returning from the school, the accused pulled her forcibly and committed aggravated penetrative sexual assault. Therefore a complaint was lodged by the mother on 09.09.2018 and FIR was registered on the same day. On completion of investigation, a charge sheet was filed and the case was taken on file by the Sessions Judge, Fast Track Mahila Court, Dindigul in Spl.S.CNo.49 of 2018.

(12) The trial court after a full-fledged trial, found the accused guilty for the offence under Section 5(l)(m) r/w 6 of POCSO Act and under Section 506(i) IPC. The accused was sentenced to undergo 10 years imprisonment for the offence under Section 5(l)(m) r/w 6 of POCSO Act with a fine of Rs.5000/-, in default to undergo six months rigorous imprisonment and to undergo 1 year rigorous imprisonment for the offence under Section 506(i) IPC. The trial court had also awarded a compensation of Rs.85,000/- to the victim girl under Rule 7(3) of POCSO Act.

(13) The trial court, on the basis of the oral and documentary evidence put forth by the prosecution and the evidence of P.W.1 to 4, P.W.7 to 11 held that the prosecution proved that the offence of aggravated penetrative sexual assault was committed by the accused on the victim girl. The trial court also



Crl.A.(MD).No.396/2021

found that the offence under Section 506(i) IPC was proved by the evidence of P.W.1, P.W.12 to P.W.18 and Ex.P.1 and Ex.P.2. The trial court found that the prosecution witnesses' testimony was natural and neutral. The trial court therefore convicted and sentenced the accused as above.

(14) The contentions of the learned counsel for the appellant can be summarized into the following four limbs:

- (a) False implication of the accused due to disputed money transactions between the accused and the victim's family.
- (b) Reliance placed solely on the victim's evidence without any corroborative evidence is fatal to the prosecution's case.
- (c) Only relatives of the victim were examined and independent witnesses were not examined.
- (d) Inconsistencies and contradictions in the evidence of the prosecution witnesses

(15) False implication of the accused due to disputed money transactions between the accused and the victim's family:

It is seen that to substantiate the plea that due to prior family dispute regarding some money transaction, the appellant was falsely implicated in the



Crl.A.(MD).No.396/2021

crime, there is no evidence on the side of the defense. The learned counsel placed reliance on the evidence of P.W.7 to P.W.11, to prove that there was some money transaction between the accused and the victim's family and that due to it, the accused was assaulted and was hospitalized. In their evidence P.Ws.7 to 11 denied knowledge of any money transaction between the accused and the victim's family. However, they stated that there was a fight, in which, that the accused was hospitalized for four days. As rightly pointed out by the State counsel appearing for the respondent, mere assault of the accused is not sufficient to infer that it was due to a dispute relating to money transactions. More over, when all the aforesaid witnesses denied knowledge of any money transaction, the burden was heavy on the accused to prove the money transaction. In the absence of any evidence by the accused to show that only because of the money dispute he was assaulted and falsely implicated in the case, the prosecution's case cannot be thrown out. The appellant taking advantage of the statement of the aforesaid witnesses that he was hospitalized pursuant to a fight, contends that due to prior enmity he was falsely implicated in this case. True, the aforesaid witnesses have spoken of a dispute and the hospitalization of the appellant, however, the said witnesses



Crl.A.(MD).No.396/2021

specifically denied knowledge of any money transaction. Unless and until the money transaction is proved, mere statement that there was a dispute and the accused was hospitalized is of no consequence. It is trite in law that the evidence on record must be read as a whole, selective or piecemeal appreciation is impermissible.

(16)Sole evidence of victim as basis for conviction ; No independent witnesses examined and inconsistencies and contradictions in prosecution witnesses:-

The other limbs (b)(c) and (d) of the appellant's contentions are clubbed as they are inter-related. It is settled legal position that if the testimony of the victim girl is found to be credible, trustworthy and unwavering, it needs no corroboration. Therefore, this Court will first examine, if the victim's testimony is wholly reliable. A perusal of the statement of the victim girl under 164 Cr.P.C and her evidence before the Court show that her testimony is consistent, clear and categorical. The victim has spoken unambiguously on the place of occurrence, the identity of the victim and the nature of assault. The victim's testimony remained unshaken in the cross-examination with respect to the foundational facts. The victim in her 164 Cr.P.C statement



Crl.A.(MD).No.396/2021

stated as follows:

WEB COPY

"எங்களுக்கு வீடு எதுவும் இல்லை அதனால் சீலப்பாடி தலைவர் காணன் தோட்டத்தில் வசித்து வருகிறோம், நான் 8/ம் வகுப்பு அரசு மேல்நிலைப்பள்ளி திண்டுக்கல்லில் படித்துவருகிறேன், நான் தினசரி காலையில் பேருந்தில் கூலக்கு சென்று விட்டு மாலையில் திரும்பி வருவேன், கடந்த 03,09,2018/ம் தேதியன்று எங்கள் ஊருக்கு செல்லும் வழியில் ஆளில்லாத கேட் வழிகுடி நான் நடந்து செல்வேன், அப்போது முருகன் த.பெ வெள்ளையன் என்பவர் எரமநாயக்கன்பட்டியைச் சேர்ந்த ஆள் அவர் என்னை கெடுத்துவிட்டார், ஆளில்லாத ரயில்வே கேட்டில் வைத்து கெடுத்துவிட்டார், நான் ஞாயிற்றுக்கிழமை சாயங்காலம் 5 மணிக்கு சீனி வாங்குவதற்காக மேற்படி கேட் வழியே சென்றேன், முருகன் என்னை கூப்பிட்டான் நான் வரமாட்டேன் என்று சொன்னேன், அதற்கு உன்தம்பி ஸ்கூலுக்கு போயிட்டு வரும்போது ரயிலில் தள்ளிவிடுவேன், அதேபோல் உன் அம்மா கடைக்கு போய்ட்டு வரும்போது தள்ளி நின்று ரயிலுக்குள் தள்ளிவிடுவேன் என்று மிரட்டினார், அதன்பிறகு திங்கட்கிழமை நான் ஸ்கூலுக்கு சென்று விட்டு வரும்போது என்னை கெடுத்துவிட்டார்",

(17) The victim in her chief-examination deposed as follows:

"மறுநாள் 3,9,2018 அன்று நான் பள்ளி விட்டு வீட்டுக்கு வரும் வழியில் அதே போன்று அவர் குடிசைக்கு என்னை இழுத்துச் சென்று என்னை கெடுத்தவிட்டார், இதையும் நான் யாரிடமும் சொல்லவில்லை, 5.9.2018/ம் தேதி நான் எனது அத்தையிடம் சென்று முருகன் என்னை கெடுத்த விபரத்தை சொன்னேன், ஏன் அத்தை எதற்காக கூப்பிட்டால் போனாய் என்று சொல்லி என்னை அடித்தார், என்னை அடிக்கவும் என் அம்மா என் அத்தையிடம் சண்டைபோட்டார், பிறகு என் அத்தை விபரத்தை என் அம்மாவிடம் சொன்னார், 9,9,2018/ம் தேதி திண்டுக்கல் மகளிர் காவல்நிலையம் சென்று நான் எனது அப்பா, அம்மா, அத்தை எல்லோரும் சென்று புகார் கொடுத்தோம்".



Crl.A.(MD).No.396/2021

(18) In her cross-examination she categorically denied the suggestion that the case was falsely foisted due to enmity relating to a money transaction. Her evidence is as follows:

"எங்கள் ஊருக்கு மேற்குபக்கம் ரயில் பாதை உள்ளது அவை அனைத்தும் செம்மண் சார்ந்த பூமி என்றால் சரிதான், சம்பவத்தின்போது ரயில்வே மேம்பாலம் கட்டிக் கொண்டு இருந்தார்கள், தாடிக்கொம்புக்கு செல்ல வேண்டும் என்றால் மேற்கு பக்கம் உள்ள ரயில்வே தண்டவாளத்தை தாண்டித்தான் செல்லவேண்டும், ,, வழக்கு சம்பவத்தின்போது கேட் கீப்பர் இருந்தார், சம்பவத்தின் போது தகர டெண்ட் இருந்தது, அதில் கேட் கீப்பர் இருந்தார், தகர டென்டின் சாவி கேட் கீப்பர் இடம்தான் இருந்தது, எதிரியும் என் அப்பாவும் நெருங்கிய நண்பர்கள், என் அப்பாவிற்கு குடிப்பழக்கம் உண்டு, என் மாமா தங்கபாண்டி மற்றும் ஜெயப்பாண்டி ஆகியோர்கள் எதிரிக்கு நல்ல பழக்கம், என் அப்பா எதிரியிடம் பணம் கொடுக்கல் வாங்கல் வைத்திருந்தார் என்றால் தவறு, நான் கடைக்கு சென்று ஜீனி வாங்கி கொண்டு வீட்டிற்கு செல்லும்போது மதியம் 1,30 மணிக்கு எதிரி என் இடது கையை பிடித்து இழுத்தார், அப்போது என் வீட்டில் எல்லோரும் இருந்தார்கள், நான் சிவப்பு கலர் சுடிதார் அணிந்துகொண்டிருந்தேன், என்னை தகர டென்டிற்குள் தான் இழுத்து சென்றார், எதிரி ரயில்வே ஊழியர் அல்ல என்று சொன்னால் சரிதான், நான் முதல் விசாரணையில் குடிசை என்று கூறியிருந்தால் சரிதான், எதிரி என்னை டென்டிற்குள் மல்லாக்க தள்ளிவிட்டார், பிறகு நான் சத்தம் போட்டேன், சத்தம் போட்டால் பக்கத்தில் கேட்கும், ஆட்கள் யாரும் வரவில்லை, எதிரி சத்தம்போடக்கூடாது என்று வாயில் அடித்தார்,"



Crl.A.(MD).No.396/2021

(19) This Court finds from a reading of the entire testimony of the victim that except for a few minor inconsistencies, which can be ignored as innocent and arising out of her tender age, her evidence is reliable, cogent and convincing. At this juncture, reference may be made to certain judgments of the Hon'ble Supreme Court which elucidate the principles governing appreciation of the testimony of the victim and the circumstances under which such testimony, even in the absence of corroboration, can safely form the basis of conviction. The Hon'ble Supreme Court in ***State of H.P. v. Manga Singh, (2019) 16 SCC 759 : (2020) 2 SCC (Cri) 470 : 2018 SCC OnLine SC 2886 at page 762*** held as follows:

"10. The conviction can be sustained on the sole testimony of the prosecutrix, if it inspires confidence. The conviction can be based solely on the solitary evidence of the prosecutrix and no corroboration be required unless there are compelling reasons which necessitate the courts to insist for corroboration of her statement. Corroboration of the testimony of the prosecutrix is not a requirement of law, but a guidance of prudence under the given facts and circumstances. Minor contractions or small discrepancies should not be a ground for throwing the evidence of the prosecutrix.



Crl.A.(MD).No.396/2021

11. It is well settled by a catena of decisions of the Supreme Court that corroboration is not a sine qua non for conviction in a rape case. If the evidence of the victim does not suffer from any basic infirmity and the “probabilities factor” does not render it unworthy of credence. As a general rule, there is no reason to insist on corroboration except from medical evidence. However, having regard to the circumstances of the case, medical evidence may not be available. In such cases, solitary testimony of the prosecutrix would be sufficient to base the conviction, if it inspires the confidence of the court.”

(20) In **Ganesan vs. State** reported in **2020(1) SCC 573**, the Apex Court held that there can be conviction on the sole testimony of the victim/prosecutrix when the deposition of the prosecutrix is found to be trustworthy unblemished, credible and her evidence is of sterling quality.

(21) In **Phool Singh v. State of M.P.** reported in **2022(2) SCC 74**, the Hon'ble Supreme Court, after referring to the whole gamut of the case law on the subject held at para 11 as follows:

"11. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand and as observed hereinabove, we see no reason to doubt the credibility and/or trustworthiness of the prosecutrix. She is found to be reliable and



Crl.A.(MD).No.396/2021

WEB COPY

trustworthy. Therefore, without any further corroboration, the conviction of the accused relying upon the sole testimony of the prosecutrix can be sustained".

(22) From the aforesaid judgments of the Hon'ble Supreme Court, it is evident that conviction can be based on the uncorroborated testimony of the victim, provided, it is cogent, credible and blemishless. The Hon'ble Supreme Court has also enunciated that the courts should not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. The Supreme Court has stated that seeking corroboration of the victim's statements before relying upon the same as a rule, in cases where her evidence is credible, reliable and inspiring confidence amounts to adding insult to injury (In Sham Singh vs. State of Haryana in 2018(18) SCC 34.

(23) By applying the law consistently laid down in the aforesaid judgments to the facts of this case, this Court finds from the evidence of the victim as extracted in the foregoing paragraphs, that the victim's statements on the material particulars is unwavering, reliable and inspiring confidence, needing no corroboration. After all, what reason will a child of 12 years, have for



Crl.A.(MD).No.396/2021

falsely implicating the accused. The fact is that the child silently suffered the sexual assault without disclosing the same even to her mother since she feared for the life of her father and brother, who the accused threatened to kill, if she revealed the same to her family. The materials on record reveal that only after the news spread in the village, the victim confided her horrific experience to the aunt and therefore, the delay in filing the complaint.

(24) On a conspectus of the entire materials on record, this Court is of the firm view that the evidence of the victim girl is explicit, convincing and credible, needing no corroboration and therefore, based on the sole testimony of the victim, this Court has no hesitation in confirming the conviction imposed by the trial court. This Court finds absolutely no merit in the appeal and hence the same is dismissed.

(25) Finally, before parting with this case, this Court deems it appropriate, nay, necessary to express its displeasure in the manner in which some judicial officers have conducted trial in their Courts. In some cases, not only the identity of the victim is revealed, but also children of tender ages are grilled in the name of cross-examination. The Judicial Officers apparently do not intervene when gruelling cross-examination of the victims of tender ages by



Crl.A.(MD).No.396/2021

the defense is conducted before them.. The Judicial Officers have a duty to intervene to ensure that children of tender ages are not robbed of their innocence. The courts have to be alert and empathetic to the fact that even before the scars of the heinous offence have healed, the child victim is called upon to depose before the court and recount the traumatic episode. The process of trial obliges them to revisit painful memories. It is precisely for this reason that the provisions of the Act relating to conduct of trial have to be strictly followed. This Court is cognizant that cross-examination is an integral part of the defense; however, it cannot be stretched to a level that results in the corruption or further traumatization of innocent minds. It should be remembered by all that wounds of the body heal in course of time, but "wound to the spirit is carried to the grave".

26) In fine, this appeal is dismissed confirming the judgment rendered by the Sessions Judge, Fast Track Mahila Court, Dindigul in Spl.SC.No.49 of 2018 dated 05.05.2021.

16.02.2026

CM/AP
Index: Yes
Internet: Yes
NCC: Yes/ No
Speaking Order : Yes



Crl.A.(MD).No.396/2021

WEB COPY

To

- 1.The Sessions Judge,
Fast Track Mahila Court, Dindigul.
- 2.The The Inspector of Police,
All Women Police Station,
Dindigul,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.A.(MD).No.396/2021

N.MALA, J.,

CM/AP

Crl.A.(MD).No.396 of 2021

16.02.2026