



Crl.A(MD)No.821 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2026

CORAM:

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

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S.Thirumurugan

... Appellant/Sole Accused

Vs.

The State,
Represented by the
Inspector of Police,
All Women Police Station,
Kulithalai, Karur District.
Crime No.10/2021.

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 374(2) of Cr.P.C. to call for the records and to set aside the judgment of conviction and sentence dated 30.09.2022 made in Spl.S.C.No.13/2022, on the file of the learned Additional Sessions Judge, Karur and acquit the accused by allowing the present appeal.



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For Appellant : Mr.M.Jegadeesh Pandian
for Mr.C.Mahadevan
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

JUDGMENT

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

This appeal has been filed as against the Judgment passed in Spl.S.C.No.13/2022, dated 30.09.2022, by the learned Additional Sessions Judge, Karur, thereby convicting the appellant for the offences punishable under Sections 449 and 506 Part I of IPC and Section 6 of POCSO Act.

2. The case of the prosecution is that, the minor victim girl was aged about 15 years. She was studying 11th standard and the accused is being a neighbour of the victim girl aged about 37 years. When the parents of the victim girl went out, during the month of 2/16



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March 2021, the accused came to her house and committed the offence of penetrative sexual assault. The accused also continued to do the same, while the victim girl was alone at her house during Covid-19 lock-down. Thereafter, the victim became pregnant and suffered from stomach pain. Thereafter, the victim girl disclosed the offence committed by the accused and lodged a complaint.

3. On the basis of the complaint, the respondent registered an F.I.R in Crime No.10 of 2021 for the offences punishable under Sections 5(l), 5(j)(ii), 6 of POCSO Act and 506 Part I of IPC. After completion of investigation, the respondent filed a final report. On receipt of the same, the trial Court had taken cognizance and framed the charges as against the accused for the offences punishable under Sections 449 of IPC, 6 of POCSO Act and 506 Part I of IPC.

4. On the side of the prosecution, in order to bring the



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charges to home, they examined P.W.1 to P.W.9 and Exs.P1 to P18 were marked. The prosecution also produced Material Object M.O.1. On the side of the accused, D.W.1 and D.W.2 were examined and no document was marked.

5. On perusal of the oral and documentary evidence, the trial Court found the accused guilty of the offences punishable under Sections 449, 506 Part I of IPC and Section 6 of POCSO Act. He was sentenced to undergo 10 years imprisonment and was imposed a fine of Rs.1,000/-, in default, to undergo one year Simple Imprisonment for an offence punishable under Section 449 of IPC. He was further sentenced to undergo Life Imprisonment and was imposed a fine of Rs.1000/- in default, to undergo one year Simple Imprisonment for the offence punishable under Section 6 of POCSO Act. He was also sentenced to undergo two years imprisonment and was imposed a fine of Rs.1000/- in default, to undergo six months Simple Imprisonment for the offence punishable under Section 506



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Part I of IPC. Aggrieved by the same, the present appeal has been filed by the appellant.

6. The learned counsel appearing for the appellant submitted that the prosecution failed to mention the date of the alleged occurrence, and that there was a huge delay in lodging the complaint, which was not properly explained. It is a fatal to the case of the prosecution. The doctor, who examined the victim girl, did not depose before the Court and as a result, the medical evidence failed to support the case of the prosecution in proving the charge under the POCSO Act. Additionally, the prosecution did not establish the victim's age in accordance with the law. Despite the fact that the DNA analysis report is not a conclusive piece of evidence to prove the allegation of sexual assault, the trial court mechanically convicted the accused. Therefore, the entire conviction and sentence imposed on the appellant cannot be sustained and must be set aside.



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7. Per contra, the learned Additional Public Prosecutor appearing for the respondent submits that the accused had committed aggravated penetrative sexual assault on the victim girl and he also threatened the victim girl with dire consequences if she discloses the fact to anybody. Due to repeated penetrative sexual assault, the victim girl got pregnant. Subsequently, the pregnancy was aborted and the foetus was subjected to DNA test. It is categorically proved that the accused is the reason for pregnancy. The victim girl had deposed as P.W.2. She categorically deposed that the accused committed aggravated penetrative sexual assault on her. He also threatened her with dire consequences if she discloses it to anybody. Therefore, only after pregnancy, complaint was lodged before the respondent. That apart, the delay is immaterial in the sexual offence case. Therefore, the prosecution has clearly proved the charges, and the trial Court rightly convicted the accused. Accordingly, the conviction by the trial court does not call for any interference by this Court.



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8. Heard the learned counsel appearing on either side and perused the materials placed on record.

9. To prove the age of the victim, the prosecution marked the school certificate of the victim as Ex.P.6, which clearly established that the victim was 15 years old at the time of the occurrence. The accused was 37 years old at the time of the incident. During Covid-19 lock-down, when the victim girl was alone in her house, the accused trespassed into her house and utilising the absence of her parents had committed aggravated penetrative sexual assault on her. He also threatened her not to disclose anybody and committed the very same offence repeatedly. As a result, she got pregnant and only thereafter, her parents came to know that the victim girl was subjected to aggravated penetrative sexual assault by the accused. Immediately, the mother of the victim girl had lodged a complaint and the same was registered in Cr.No.10 of 2021. Hence, there is absolutely no delay in lodging the complaint. The



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“கடந்த 15.03.2021 அன்று மாலை 6.00 மணிக்கு எனது பெரிய தாத்தாவை பார்க்க எனது அம்மாவும், அப்பாவும் ஆலமரத்துப்பட்டிக்கு சென்றார்கள். அன்று மழை பெய்து கொண்டிருந்ததால் எனது அம்மா, அப்பா அன்றிரவு வீட்டிற்கு வரவில்லை. நானும், எனது தங்கைகள் இருவரும் வீட்டிலிருந்தோம். எனது தங்கைகள் இருவரும் பக்கத்து வீட்டிற்கு சென்று விளையாடிக்கொண்டிருந்தார்கள், அப்போது அன்றிரவு சுமார் 8.30 மணிக்கு திருமுருகன் எங்கள் வீட்டிற்கு வந்தார். உனக்கு பிடித்தது எல்லாம் வாங்கித்தருகிறேன் என்றும் நாம் இருவரும் ஒன்றாக இருக்கலாம் என்றும் என்னை கூப்பிட்டார். நான் வேண்டாமென்று சொல்லியும், அங்கு விரித்து வைத்திருந்த பாயில் என்னை தள்ளி தனது ஆணுறுப்பை எனது பெண்ணுறுப்பில் வைத்து அழுத்தினார். இதுபற்றி வெளியில் யாரிடமும் சொல்லக் கூடாது என்று சொன்னார். நான் அதைப்பற்றி வெளியில் சொன்னால் எனது அம்மா, அப்பாவை கொன்றுவிடுவேன் என்று மிரட்டினார். அதன்பின் அதே மாதத்தில் நான் எனது வீட்டுக்கு பின்னால் ஆடு மேய்த்துக்கொண்டிருந்தபோது எதிரி அங்கு வந்து, என்னிடம் வீட்டில் யாரும் உள்ளார்களா என்று கேட்டு வீட்டில் யாரும் இல்லாதபோது என்னை வலுக்கட்டாயமாக என்னுடன் உடலுறவு வைத்துக்கொண்டார். அதேபோல ஏப்ரல் மாதத்திலும் பலமுறை வீட்டில் யாரும் இல்லாதபோது வலுக்கட்டாயமாக என்னுடன் உடலுறவு



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வைத்துக்கொண்டார். எனக்கு மே மாதத்தில் அதிகமாக வயிற்றுவலி, வாந்தி, மயக்கம் வந்தது அதுபற்றி எனது அம்மாவிடம் சொன்னபோது எனது அம்மா மெடிக்கலில் மாத்திரை வாங்கி கொடுத்தார், வயிறு வலி, வாந்தி சரியாகவில்லை. பின்னர் வேங்காம்பட்டிக்கு சென்று வயிறை ஊதி பார்த்தார்கள். இரண்டு நாட்கள் நன்றாக இருந்தது. பின் மீண்டும் வயிற்றுவலி வாந்தி மயக்கம் இருந்தது. எனது அம்மா சந்தேகப்பட்டு 07.07.2021 அன்று என்னிடம் உனக்கு தீட்டுபோய் எவ்வளவு நாள் ஆனது என்று கேட்டார். எனது பிறந்த நாளான 11.04.2021 அன்று தீட்டுபோனதாக சொன்னேன். அதன்பின் தீட்டுபோகவில்லை என்று சொன்னேன். பின் நான் நடந்தவற்றை எனது அம்மாவிடம் கூறினேன். பின்னர் 08.07.2021 அன்று எனது அம்மா என்னை குளித்தலை அரசு மருத்துவமனைக்கு அழைத்து சென்றார். அங்கு மருத்துவர் என்னை ஸ்கேன் செய்து பார்த்து நான் மூன்று மாதம் கர்பமாக இருப்பதாக என்னிடமும், எனது அம்மாவிடமும் கூறினார். பிறகு எனது அம்மா குளித்தலை அனைத்து மகளிர் காவல் நிலையத்தில் இது சம்பந்தமாக மாலை 4.00 மணிக்கு புகார் கொடுத்தார். குளித்தலை மருத்துவமனையிலிருந்து மேல் சிகிச்சைக்காக கடந்த 16.07.2021 அன்று கரூர் அரசு மருத்துக்கல்லூரி மருத்துவமனைக்கு 108 ஆம்புலன்ஸ் மூலமாக சென்றோம். அங்கு எனக்கு கருகலைப்பு செய்யப்பட்டது. பின் 29.07.2021 அன்று கரூர் அரசு மருத்துவமனையிலிருந்து விடுவிக்கப்பட்டேன். பின் 30.07.2021 அன்று குளித்தலை நீதிமன்றத்திற்கு சென்று நடுவரிடம் வழக்கு சம்பந்தமாக



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வாக்குமூலம் அளித்தேன்.”

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10. The victim girl's testimony is the most reliable evidence. Although it does not require corroboration, her deposition is supported by the statement recorded under Section 164 of the Cr.P.C., as well as the medical evidence. After the FIR was registered, the victim girl was subjected to a medical examination by Dr. Kayathri. She advised the victim girl to undergo an ultrasound scan. On 17.07.2021, the victim underwent the ultrasound, which revealed that she was 13 to 14 weeks pregnant. Subsequently, on 23.07.2021, she experienced bleeding, and on 24.07.2021, her pregnancy was aborted. The foetus was later subjected to a DNA test. The discharge summary of the victim girl was marked as Ex.P5, and the Accident Register was recorded and marked as Ex.P7, in which she categorically stated that a known person had committed the aggravated penetrative sexual assault on her. The DNA report was marked as Ex.P18. The report of the DNA is as follows:-

“REPORT:



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DNA was extracted from the above item and amplified for amelogenin ie., sex locus and also for 15 STR loci using PCR Amplified STR Technique after taking due care for the integrity of the sample.

The DNA profile of the above item, the comprehensive analysis of the test results of the above item with that of Alleged Accused Mr.Thirumurugan and Biological Mother Ms.Valli and the interpretations thereof are given in this office report cited in ref 2.

The unexpended portion of the above item has been labelled as 'CNA/321/2021' for identification."

11. It is clear that the DNA evidence also proved that the accused was responsible for her pregnancy. Additionally, it is noteworthy that the accused had examined D.W.1 and D.W.2. D.W.1, who is the wife of the accused, deposed that the victim girl frequently visited their house, while the accused never went to the victim girl's house. She only had an acquaintance with the accused. Although the accused had examined D.W.1, this witness supports the prosecution's case and has proved that the accused committed the

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sexual offence against the victim girl. The accused is a married man and a father. He had absolute knowledge that the victim girl is a minor and even after knowing the said fact, he committed aggravated penetrative sexual assault on the victim girl. Therefore, the prosecution clearly proved the charges and the trial Court rightly convicted the accused. However, the learned counsel for the appellant submits that considering the age of the appellant, the sentence may be modified since he was sentenced to undergo Life Imprisonment.

12. Considering the age of the appellant, this Court is inclined to modify the sentence alone. Accordingly, the conviction and sentence imposed on the appellant under Section 449 and 506 Part I of IPC are confirmed and conviction imposed on the appellant under section 6 of POCSO Act is confirmed and the sentence for the offence under Section 6 of POCSO Act alone is modified as 20 years Rigorous Imprisonment instead of Life Imprisonment.



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13. With the above modification, the Criminal Appeal is partly allowed. The sentences of imprisonment shall run concurrently. The period of imprisonment already undergone by the appellant shall be set off under Section 428 of Cr.P.C.

**[G.K.I.J.] & [R.P.J.,]
17.02.2026**

NCC :Yes/No
Index :Yes/No
Internet :Yes
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- 1.The Additional Sessions Court,
Karur.
- 2.The Inspector of Police,
All Women Police Station,
Kulithalai, Karur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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