



Crl.A(MD)No.1101 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2026

CORAM:

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

**Crl.A(MD)No.1101 of 2025
and
Crl.A(MD)No.14455 of 2025**

Muruganandam @ Murugan

... Appellant/Sole Accused

Vs.

State represented by,
The Inspector of Police,
Natham Police Station,
Dindigul District.
In Crime No.162 of 2023.

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 374(2) of Cr.P.C to call for the records from the lower Court and set aside the Judgment passed by the learned Sessions Judge (Special Court for Exclusive Trial of Cases under POCSO Act), Dindigul in Spl.S.C.No.362 of 2023, dated 06.11.2024 by allowing this appeal.



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For Appellant : Mr.S.Maya Perumal
For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

JUDGMENT

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

This appeal is directed as against the Judgment passed in Spl.S.C.No.362 of 2023, dated 06.11.2024, on the file of the learned Sessions Judge (Special Court for Exclusive Trial of Cases under POCSO Act), Dindigul, thereby convicting the appellant for the offence punishable under Section 366 of I.P.C and Section 6 of the Protection of Children from Sexual Offences (Amendment) Act, 2019 (in short hereinafter referred to as 'the POCSO Act, 2019')

2.The case of the prosecution is that the victim minor girl belongs to Natham, Dindigul District. The accused belongs to Ramanathapuram. While she was studying 10th standard in the Government Higher Secondary School at Natham, she had



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acquaintance with the appellant through cell phone by way of instagram. Thereafter, they fell in love with each other. The parents of the victim girl came to know about the love affair and they warned the victim and due to which, the victim girl called the accused through her cell phone to come to Natham to marry her. On 12.04.2023, the minor victim girl eloped with the appellant and went to Kerala where the appellant married the minor victim girl and stayed there in a room. While they were staying in the private hotel, the appellant had committed penetrative sexual assault on the minor victim girl. Thereafter on 14.04.2023, they returned to Thanjavur, where they stayed in the appellant's sister's house. Thereafter, the parents of the minor victim girl lodged complaint and after knowing the same, they themselves came to Natham.

3.On the complaint, the respondent registered the F.I.R in Crime No.162 of 2023 for the offences punishable under Section 366 of I.P.C and 5(L) read with Section 6 of the POCSO Act. After



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completion of the investigation, a final report was filed and the same was taken cognizance by the Trial Court.

4.In order to bring the charges to home, the prosecution examined P.W.1 to P.W.18 and marked Exs.P1 to P19. On the side of the accused, no witnesses were examined and no documents were produced before the Trial Court.

5.On perusal of the oral and documentary evidence, the trial Court found the accused guilty for the offences punishable under Section 366 of I.P.C and Section 6 of the POCSO Act. He was sentenced to undergo three years Rigorous Imprisonment and imposed a fine of Rs.5,000/- in default, to undergo six months Simple Imprisonment for the offence punishable under Section 366 of I.P.C. He was also sentenced to undergo life imprisonment and imposed a fine of Rs.1,00,000/- in default, to undergo one year Simple Imprisonment for the offence punishable under Section 6 of



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the POCSO Act. Aggrieved by the same, the appellant has filed the present Criminal Appeal.

6.The learned counsel appearing for the appellant submitted that all the witnesses turned hostile, including the victim girl. No one supported the case of the prosecution. The medical evidence also did not support the prosecution's claim regarding penetrative sexual assault. The doctor who examined the minor victim girl deposed as P.W.14. The doctor stated that no injury was found on the body of the victim girl during the examination and did not give any opinion that she had been subjected to penetrative sexual assault.

7.While recording the Accident Register, the victim girl categorically stated that she had eloped with the appellant on her own and that nothing had happened at the hands of the appellant. In fact, the prosecution failed to prove the complaint itself, marked as

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Ex.P.1, which was lodged by the mother of the victim girl, who deposed as P.W.1. She admitted that Ex.P.1 was written by one Ismail, who was not examined by the prosecution. Further, the victim girl deposed that from 13.04.2023 onwards, she had her menstrual period and, as such, there could not have been any penetrative sexual assault. Even then, the Trial Court mechanically convicted the appellant.

8.Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that the appellant had committed penetrative sexual assault on the minor victim girl. Though the victim girl on her own eloped with the appellant she was minor at that time and as such, the charge under Section 399 of I.P.C is clearly proved by the prosecution. Only at the instance of the appellant, the minor victim girl went along with the appellant. The appellant mesmerized the minor girl by sweet words on the pretext of marriage, he kidnapped the minor victim girl and committed



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penetrative sexual assault on her. The Doctor also deposed that her hymen was not intact and there is a possibility of having sexual intercourse. Therefore, the presumption under Section 29 of the POCSO Act clearly arise in this case and the Trial Court rightly convicted the appellant and it does not warrant any interference of this Court.

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

10.Admittedly, the victim was a minor. While studying in the 10th standard, she fell in love with the appellant through Instagram. When her parents became aware of this, they warned her. Therefore, the victim girl called the appellant to come and take her to marry him. On receiving the phone call from the minor victim girl, the appellant came to her house, and both of them went to Kerala. He had also tied a thali on the minor victim.

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11.On the complaint lodged by the mother of the victim, the appellant and the minor victim girl came to Natham, and the appellant was arrested and remanded to judicial custody. After the registration of the F.I.R., the minor victim girl was subjected to a medical examination, during which the Accident Register was recorded. The Accident Register was marked as Ex.P.11. In the Accident Register, the statement of the victim girl was recorded, stating that she had a love affair with the appellant, went with him to Kerala on 12.04.2023, and married him. They stayed together.

12.After examination of the minor victim girl, she opined that the minor victim girl's hymen was not intact, no external injuries over breast and external genitalia. Thereafter, the minor victim girl's statement was recorded under Section 164 of Cr.P.C., which was marked as Ex.P.3. The relevant portion of her statement is as follows:



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“2.அதன்பிறகு நாங்கள் இருவரும் அடிக்கடி போனில் பேசிக்கொள்வோம். ஒருநாள் போன் பேசும்போது, அந்த பையன் என்னிடம் வா, நாம் எங்கேயாவது போய்விடலாம் என்று சொன்னான். அதனால் நானும், 12.04.2023 அன்று மதியம் 12.00 மணியளவில் நான் இங்கிருந்து கிளம்பி திருப்பூர் போய்விட்டேன். அந்த பையன் திருப்பூருக்கு வந்து நாங்கள் இருவரும் கேரளாவிற்கு அந்த பையன் வேலை செய்யும் இடத்திற்கு சென்றோம்.

3.நாங்கள் கேரளா போகும் வழியில் ஒரு மாரியம்மன் கோவிலில் தாலி கட்டி திருமணம் செய்து கொண்டோம். அதன்பின்னர் 6 நாட்கள் நானும், அந்த பையனும் இருந்தோம். தாலிகட்டியதால் நாம் ஒன்னு சேரலாம் என்று சொன்னான். அதனால் நாங்கள் 13.04.2023 அன்று கணவன், மனைவியாக ஒன்று சேர்ந்தோம். அடுத்த நாள் எனக்கு பீரியட்ஸ் ஆனதால் எதுவும் செய்யவில்லை.”

13.The minor victim girl had deposed as P.W.2. In her cross-examination, she categorically deposed that she married the appellant and they had no sexual relationship. The relevant portion



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of her deposition is as follows:

“எதிரி என்னை கேரளாவிற்கு அழைத்து செல்லும்போது வழியில் ஒரு மாரியம்மன் கோவிலில் வைத்து எனக்கு தாலி கட்டி திருமணம் செய்துகொண்டதாக நீதிமன்றத்தில் சொன்ன சங்கதிகளை போலிசாரிடமும் சொல்லியிருக்கிறேன். அது ஒரு தாலி கட்டிய திருமணம் ஆகும். போலிசார் என்னை விசாரிக்கும்போது நான் அந்த தாலியுடன்தான் இருந்தேன். அந்த தாலியை போலிசாரிடம் ஒப்படைத்துவிட்டேன். 18.04.2023 அன்று போலிசார் என்னை விசாரிக்கும்போது, எதிரிக்கும் எனக்கும் இடையே உடலுறவு எதுவும் நடைபெறவில்லை என்று சொல்லியிருக்கிறேன் என்றால் சரிதான். நான் வீட்டைவிட்டு புறப்பட்டு போன அன்று எனக்கு மாதவிடாய் ஆகியிருந்தது என்றும், அதை நான் போலிசார் விசாரணையில் சொல்லியிருக்கிறோ என்றால் சரிதான். மாதவிடாய் எனக்கு 6 நாட்கள் இருக்கும்.”

14.Thus, it is clear that there was no sexual relationship between the appellant and the minor victim girl. Except the deposition of the victim girl and her statement recorded under 10/14



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Section 164 of Cr.P.C, no one has spoken about their elopement and sexual relationship. In fact, the medical evidence also did not support the case of the prosecution to prove the charge under Section 5(L) read with Section 6 of the POCSO Act.

15.Now, the appellant married some other girl and the victim girl married some other boy and they are living happily. Therefore, the prosecution failed to prove any of the charge as against the appellant.

16.In view of the above, the conviction and sentence imposed on the appellant in Spl.S.C.No.362 of 2023, dated 06.11.2024, on the file of the learned Sessions Judge (Special Court for Exclusive Trial of Cases under POCSO Act), Dindigul, cannot be sustained and are liable to be set aside.



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17.In the result, this Criminal Appeal is allowed and the Judgment made in Spl.S.C.No.362 of 2023, dated 06.11.2024, on the file of the learned Sessions Judge (Special Court for Exclusive Trial of Cases under POCSO Act), Dindigul, is hereby set aside and the appellant is acquitted of all the charges. The bail bond, if any, executed by the appellant shall stand cancelled. The fine amount, if any paid, shall be refunded to the appellant. The appellant shall be set at liberty forthwith, if he is no longer required in connection with any other case. Consequently, connected Miscellaneous Petition is closed.

[G.K.I.J.] & [R.P.J.,]
03.02.2026

NCC :Yes/No
Index :Yes/No
ps



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To

1.The Sessions Judge (Special Court for
Exclusive Trial of Cases under POCSO Act),
Dindigul.

2.The Inspector of Police,
Natham Police Station,
Dindigul 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.

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