

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.03.2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU
and
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

Cr1.A.No.22 of 2017

Madavan

Appellant

Vs

The State rep by
The Inspector of Police,
All Women Police Station,
Ariyalur District
(Crime No.8/2015)

Respondent

Appeal filed u/s.374 Cr.P.C against the judgment in
Spl.S.C.No.10 of 2016 dated 15.09.2016 on the file of Sessions
Court (Fast Track Mahila Court), Ariyalur.

For Appellant : Mr.P. Andiraj

For Respondent : Mr.P. Govindarajan
Addl. Public Prosecutor

JUDGMENT

[Judgment of the court was delivered by S.NAGAMUTHU, J.]

"Teaching is a Noble Profession that shapes the Character, Caliber and Future of an individual. If people remember me as a good Teacher, that will be the biggest honour to me." said Dr.A.P.J. Abdul Kalam. A Teacher is a role model to the every student in class room. He is responsible for the all round personality development of a student. For a good and sincere student he is a "God". But, Alas! Shockingly, in this case, a shameless teacher is alleged to have sexually exploited a female child of 14 years age, who was his student. He is not a God like, but an evil being. The Story of the teacher, in this instant case, goes like this."

2. The teacher/appellant is the sole accused in Special Sessions Case No.10 of 2016 on the file of Fast Track Mahila Court, Ariyalur. He stood charged for the offence punishable

under Sections 366 IPC, under Sec.6 of The Protection of Children from Sexual Offences Act 2012 and under Sec.9 of Tamil Nadu Prohibition of Child Marriage Act, 2006. By Judgment dated 15.09.2016, the trial Court acquitted the appellant from the charge under Sec.9 of Tamil Nadu Prohibition of Child Marriage Act, 2006, however, convicted him for the offence under Sec.366 IPC and sentenced him to undergo rigorous imprisonment for five years and to pay a fine of Rs.1,000/- in default, to undergo six months simple imprisonment and for the offence under Sec.6 of The Protection of Children from Sexual Offences Act 2012, sentenced to undergo rigorous imprisonment for 20 years and to pay a fine of Rs.10,000/-, in default to undergo simple imprisonment for one year. The appellant has also been directed to pay a sum of Rs.50,000/- (Rupees fifty thousand only) as compensation. Challenging the said conviction and sentence, the appellant is before this Court with this appeal.

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

(a) P.W.2 was admittedly 14 years and two months old. As on 04.09.2015, she was studying IX standard in the Government High School at Coovagam village in Ariyalur District. Her date of birth, as per school records, is 28.06.2001. According to the case of the prosecution, the appellant, who was aged about 27 years, was a newly appointed Social Science Teacher in the said School. He was the teacher for P.W.2 (hereinafter referred to as "the child".)

(b) It is the case of the prosecution that when the child was studying IX standard, the accused, who was already married and having two children, told the child (P.W.2) that he loved her and he also promised to marry her. Enticing her with these sweet words, it is alleged that he took her to many places like Trichy, Mukombu and Pondicherry, without the knowledge of the parents and family members of the victim child. On 04.09.2015, the accused wanted the child to come to school to attend Talent Exam Special Class. In fact, there was no such Talent Exam Special Class conducted on that particular date. The intention of the accused, according to the prosecution, in asking the victim child to come to the School was to abduct her and to commit penetrative sexual assault on her. When she went to the school, the accused took her from the School to a house at KKC Colony in Jayamkondam. They reached the house at 6.00 p.m. In the said house, between 04.09.2015 and 07.09.2015, he kept her, promised her to marry and introduced her to the neighbours as his wife and thus had repeated sexual intercourse with the child. It is further alleged that on 08.09.2015 he took the victim child back and dropped her at her house. This is the crux of the charges framed against the accused.

© P.W.1 is the mother of the victim child. She saw the

victim child lastly around 2.00 p.m on the date of occurrence when she left for the school to attend the Talent Exam Special Class. P.W.1 believed that she was really going to attend the Special Class, but, in the evening, the child did not return home. Therefore, P.W.1 went in search of the victim child in the school, but the child was not seen. The people in the school told that there was no such talent exam special class conducted on that date in the school. P.W.1 met the Head Master of the School. The Head Master, in turn, told that there was no such class and P.W.2 did not come to the school at all. P.W.1 thereafter, returned home. At the house, she found the cell phone instrument used by P.W.2. In that instrument, there was a SIM card, which was not owned in fact by P.W.2. P.W.1 therefore took the phone along with the SIM card and handed over the same to the Head Master of the School. The Head Master, after having tested the cell phone and after having enquired with the students, who were in the school, told P.W.1 that the SIM card was that of the accused.

(d) Suspecting some foul play at the end of the accused, the Head Master summoned the accused in the School. When he enquired him about P.W.2, he feigned ignorance of what had really happened. Then, he took leave of the school and went away. Thereafter, P.W.1 went in search of the child to various places. While so, the accused took back P.W.2 and dropped her at the house of P.W.1 on 08.09.2015. When P.W.1 enquired P.W.2, she narrated the entire event. However, P.W.1 was hesitant to go to police with a complaint at once. She believed that it would bring disrepute to the family honour and affect the future of the child. After three days, having gained courage, it is alleged that P.W.1 went to All Women Police Station, Ariyalur on 11.09.2015 at 6.30 p.m and made a complaint (Ex.P.2). Based on such complaint, the Sub Inspector of Police registered a case in Cr.No.8 of 2015 under Sec.5(f)(1) r/w 6 of The Protection of Children from Sexual Offences Act, 2012. Ex.P.14 is the First Information Report. She forwarded both the documents to Court, which were received by the Special Court at 4.45 p.m on 12.09.2015.

(e) P.W.18, the then Inspector of Police, took up the case for investigation. She examined P.Ws.1, 2 and few more persons and recorded their statements. Since P.W.2 told that she was kidnapped by the accused and then kept at the house of P.W.10 at 4G, KKC Colony, Velayutham Nagar, Jayamkondam she went there and examined P.W.10 Mrs.Thilagavathi and her husband, P.W.9 Dhanasingh. P.W.18 forwarded the victim child for medical examination. The doctor, (P.W.13) who conducted medical examination, found that the hymen of the victim child was ruptured, thereby, indicating that she has been subjected to sexual intercourse.

(f) P.W.18 collected the school records to prove the age of the child. P.W.18 arrested the accused on 12.09.2015 and forwarded him for medical examination. The doctor, (P.W.14) who examined the accused, opined that the accused was sexually potential to perform sexual intercourse with a female. He forwarded him to the Court for judicial remand. P.W.19 his successor Inspector of Police continued the investigation and laid charge sheet against the accused.

4. But, the Special Judge of the Special Court under The Protection of Children from Sexual Offences Act, 2012 had not passed any written order taking cognizance of the offences on the police report filed by the Inspector of Police (P.W.19). He issued summons for the appearance of the accused and after appearance of the accused, he complied with Sec.207 of the Criminal Procedure Code and posted the case for the Special Public Prosecutor to open the case for framing charges. The accused engaged a counsel. After having heard the learned Special Public Prosecutor and the learned counsel appearing for the accused, the trial court framed charges on 25.05.2016. The accused denied the charges. Therefore, he was put on trial. In order to prove the case, on the side of the prosecution, as many as 19 witnesses were examined and 14 documents were marked. No Material Objects were marked on either side.

5. Out of the said witnesses, P.W.1, who is the mother of the victim child (P.W.2) has stated that on 04.09.2015 i.e., on the date of occurrence, around 2.00 p.m, P.W.2 went to the school informing that she was going to attend Talent Exam Special Class. P.W.1 has further stated that in the evening, P.W.2 did not return. She has also stated that she enquired many persons in the school including the Head Master. She has also spoken about the cell phone of P.W.2 containing the SIM card of someone else. She has further stated that she took the cell phone and handed over the same to the Head Master. From enquiries, according to her, the Head Master came to know that the SIM card belonged to the accused. Therefore, the Head Master enquired the accused. The accused expressed total ignorance of anything and went on leave. She has further stated that the child returned home on 08.09.2015. She has also stated that immediately she enquired the victim child. The victim child narrated the entire event. P.W.1 told that the victim child (P.W.2) was kidnapped, kept under the promise of marriage and thus the accused had repeated sexual intercourse. She has further stated that she was not inclined to make police complaint immediately because of the possible harm to the family prestige and honour. She has further stated that after having gained courage, she made a complaint to the police on 11.09.2015.

6. P.W.2 the victim child has turned hostile and she has not supported the case of the prosecution in any manner. She has

stated that when she was studying IX Standard in the School, the accused was her Social Science Teacher. She has further stated that when she was studying IX Standard, the accused gave corporal punishment to her because she did not study well. She informed the same to her parents. On hearing the same, they got wild. They came to the school and quarreled with the accused. Then onwards, according to P.W.2, her parents were inimical towards the accused. P.W.1 has gone to the extent of saying that on one occasion they challenged that they would take revenge on the accused. P.W.2 has further stated that the accused did not take her and he did not have sexual intercourse with her. Though she was cross examined extensively, nothing has been elicited in favour of the prosecution.

7. P.W.3 is the father of the victim child (P.W.2). He has also spoken about the same facts, as spoken by P.W.1, the mother of the child. P.W.4 is the brother of P.W.1. He has also spoken about the same facts, as spoken by P.W.1. P.W.5 was a resident of Coovagam village. He has further stated that he did not know anything about the occurrence. He has only spoken about the hearsay information. P.W.6 has turned hostile and he has not supported the case of the prosecution in any manner. P.W.7, the Head Master of the Government School at Coovagam village has stated that during the relevant time, P.W.2 was studying in X Standard. He has further stated that on 04.09.2015 there was no Talent Exam Special Class, conducted in the school. He has also stated that on 07.09.2015, P.W.1 came to the School and told him that from 04.09.2015 2.00 p.m onwards, the victim child (P.W.2) was found missing from the school. He has also spoken about the cell phone, which was brought by P.W.1 to him. It was the cell phone which was found at the house of P.W.1. The cell phone contained the SIM card of the accused. He has further stated that he enquired the accused. He did not admit anything about the occurrence. He went on leave. He has further stated that he furnished the attendance register of P.W.2 as well as the accused. P.W.8 is also a Graduate Teacher in the same school. He has also spoken the same facts, as spoken by P.W.7. P.W.9 is a resident of KKC Colony, Velayutham Nagar, Jayamkondam. P.W.10 is the wife of P.W.9. P.W.9 has stated that the accused entered into a rental agreement with his wife and stayed in the first floor. The accused promised to pay Rs.2,000/- as rent. He has further stated that he did not know anything more about the case. P.W.9 turned hostile.

8. P.W.10 is the star witness for the prosecution. She has spoken many facts. According to her, on 03.09.2015, the accused paid a sum of Rs.2,000/- as advance for occupying a portion of her house on rental basis. Immediately he paid Rs.1,000/- and promised to pay the balance later. The monthly rent was agreed to be paid at Rs.3,000/-. On the next day, i.e., on 04.09.2015, according to her, the accused came with P.W.2 at 5.00 p.m to

occupy the house. In the evening, they went together for shopping. On the same day in the night, symbolising house warming, P.W.2 boiled milk in the house and served the same to the invitees. P.W.10 participated in the same. At that time, according to her, the accused introduced P.W.2 as his wife. Thereafter, they stayed in the house for some time. Subsequently, the accused left the house along with the victim child (P.W.2) on 08.09.2015 between 3.00 and 3.30 p.m. Thereafter, the accused did not return. Neither the victim child returned. On 12.09.2015, the Inspector of Police brought the child to her house and interrogated P.W.10. She has identified P.W.2 as the female who was staying with the accused in the house as his wife.

9. P.W.11 has spoken about the confession made by the accused. P.W.12 has also spoken about the arrest of the accused. P.W.13- Dr.Suguna has stated that she examined the victim child (P.W.2) on 12.09.2015. She found the following injuries:

o/e - pt conscious a febrile, no pa, No
(nc),
no PE no generalised lymphadenopathy
no edema legs. Ans - S1S2+
RS - NVBS +
Breast - Tanner stage V
Axillary & pubic hair - stage III tanner
p/a soft, no tenderness no mass palpable
l/e Ext.genitals normal
hymen absent
(nc) admits two fingers easily
p/v ex, int av ff no femoral tender

Ex.P.9 is the Certificate issued by her. She opined that the victim child would have been subjected to repeated sexual intercourse.

10. P.W.14 Dr.Bharat has stated that he examined the accused on 23.09.2015. According to him, the accused was sexually potent to perform sexual intercourse with a female. P.W.15 Kavithapriya has stated that she examined the victim child to estimate her age. According to her, P.W.2 was aged between 13 and 15 years.

11. P.W.16 a Constable, attached to All Women Police Station, Aiyalur stated that he took P.W.2 to doctor for examination. P.W.17 yet another constable has stated that he took the accused to the doctor for conducting medical examination. P.W.18 has spoken about the registration of the case and major part of the investigation done by her. P.W.10 has spoken about the further investigation done by her and the final report filed.

12. When the above incriminating materials were put to the accused u/s.313 Cr.P.C., he denied the same as false. His defence was a total denial. However, he did not choose to examine any witness nor mark any document on his side. Having considered all the above, the Trial Court convicted the accused. Challenging the said conviction, the appellant has come up with this appeal.

13. We have heard the learned Counsel for the appellant and the learned Additional Public Prosecutor appearing for the State. We have also perused the records carefully.

14. The learned counsel for the appellant would submit that P.W.2 has turned hostile and has not stated anything incriminating against the accused. Therefore, the accused is entitled for acquittal. He would further submit that the other circumstances stated by P.Ws.1, 3 and 10 would not go to prove the guilt of the accused beyond reasonable doubt. However, according to him, the trial Court has convicted the accused by erroneously invoking presumption under Sec.29 of The Protection of Children from Sexual Offences Act 2012. In fact, according to the learned counsel, the conviction of the accused is based on mere surmise and therefore, the accused is entitled for acquittal.

15. The learned Additional Public Prosecutor vehemently opposed this appeal and he submitted that it is true that the victim child P.W.2 has turned hostile but on that score, the entire case of the prosecution cannot be thrown out. He would further submit that the evidence of P.Ws.1, 3 and 10 coupled with medical evidence would clearly prove the guilt of the accused. Thus, the trial Court was right in convicting the accused, he contended.

16. The learned counsel for the appellant would submit that the entire trial conducted by the trial Court is vitiated as the trial Court did not take cognizance of the offence. Taking cognizance of the offence on the police report alone would give jurisdiction to the Court to proceed further. In this case, since there was no order taking cognizance, the entire trial is vitiated, he submitted.

17. In order to appreciate this argument, we went through the case records of the trial Court thoroughly. The records reveal that the final report in this Court was filed by the Inspector of Police before the Special Court on 17.05.2016. As per Sec.33 of the Act, the Special Court is empowered to take cognizance of any offence, without the case being committed to it for trial, upon receiving a complaint of facts which constitute such offence, or upon a police report of such facts.

But a perusal of the records of the Court below would go to show that there was no order in writing passed by the learned Judge taking cognizance of the offences.

18. On 25.05.2016, when the accused appeared in response to the summons, the learned Judge framed charges against the accused on hearing both the parties. Thus at that stage, neither the accused nor his counsel raised any objection regarding the absence of written order taking cognizance of offence.

19. In this regard, we have to state that the order taking cognizance of offences on the police report, of course, is a judicial order. But, the expression "taking cognizance" has not been defined anywhere. The Hon'ble Supreme Court on many occasions, has declared that taking cognizance of offence means application of the judicial mind of the Judge with a view to take further action. If once he had applied his judicial mind and decided to proceed further, then the process of taking cognizance is complete. In this case, the learned Judge, though had not passed any written order taking cognizance, undoubtedly he had applied judicial mind into the entire police report and accordingly, had proceeded further to post the case for framing charges against the accused. This would go to show that the learned Judge had applied his judicial mind with a view to proceed further and then only he posted the case for framing charges. Thus, though there was no written order passed by the learned Judge taking cognizance of the offence, in fact, he had taken cognizance of the offence, which is inferable from the above facts.

20. In this regard, we may also refer to the judgment of the Hon'ble Supreme Court in State of Madhya Pradesh vs Bhooraji and others reported in 2001 (7) SCC 679, wherein, the Hon'ble Supreme Court had to consider a case where the Sessions Judge proceeded with the trial without there being a formal order of committal by the learned Magistrate under Sec.209 or 323 of Criminal Procedure Code. Having considered the said situation and also having considered Sec.465 of Criminal Procedure Code, in paragraph-15 of the judgment, the Hon'ble Supreme Court held as follows:

" A reading of the section makes it clear that the error, omission or irregularity in the proceedings held before or during the trial or in any enquiry were reckoned by the legislature as possible occurrences in criminal courts. Yet the legislature disfavoured axing down the proceedings or to direct repetition of the whole proceedings afresh. Hence, the legislature imposed a

prohibition that unless such error, omission or irregularity has occasioned "a failure of justice" the superior court shall not quash the proceedings merely on the ground of such error, omission or irregularity.

21. In the instant case, in our considered view, applying the same, we are fully convinced that though there was no formal written order, taking cognizance, the fact remains that there was in fact cognizance taken by the learned Judge and at any rate, there has been no failure of justice. In such view of the matter, the first ground raised by the learned counsel for the appellant is rejected.

22. Now turning to Secs.36, 37 and 38 of The Protection of Children from Sexual Offences Act, 2012 these provisions contain elaborate procedure as to how the trial should be conducted by the Special Court so as to ensure that the child is not exposed in any way to the accused at the time of recording of evidence and as to how conducive atmosphere should be provided to the child to depose freely without any fear or any other compulsion.

23. In this case, unfortunately, the records reveal that there is no indication that this procedure was followed by the learned Judge. There is no indication that the victim child (P.W.2) was examined in camera. There is also no indication that the questionings were given in writing to the Judge and the Judge, in turn, asked questions to the child in a child friendly manner. In the absence of compliance of these provisions and when there is no record to indicate that a child friendly atmosphere was provided to the child, we are of the view that the reasons for the child to turn hostile in Court disowning her earlier statement is presumable.

24. The learned Additional Public Prosecutor also concurred with us that the trial Court has failed to follow these provisions. On this score, in fact, we had a thought that we should remand the case back to the trial Court for re-trial so that these provisions are scrupulously followed and the child is called upon to depose afresh without any fear or compulsion. After having a considerable thought, we felt that the said course would not be conducive enough because it would amount to harassing the victim child (P.W.2) and it may even amount to inroad into her privacy. Therefore, we have dropped the idea of remanding the matter back to the trial court for re-trial. Thus, we have decided to analyse the available evidence to see whether the trial court was right in convicting the accused under section 366 IPC and also under of The Protection of Children from Sexual Offences Act 2012.

25. There is no controversy over the fact that the victim child was studying in the Government School at Coovagam village in Ariyalur District, where the accused was a Social Science Teacher. There is also no controversy over the fact that the accused was the teacher for the class in which the victim child (P.W.2) was studying both in IX and X standard. Though it is the charge that when the victim child was studying in IX Standard, the accused expressed his love to marry her and based on such a false promise, took her to various places, since the victim child turned hostile, we find that there is no evidence to prove this part of the charge.

26. On 04.09.2015, it is alleged that around 2.00 p.m, P.W.2 went to the school informing her mother that there was a special class. Thereafter, she did not return home. When P.W.1 went to the school in search of the child, the Head Master and others told that there was no such special class on that particular date. Thus, it is crystal clear from this evidence that though there was no special class for P.W.2 in the school, pretending that she was going to school, P.W.2 had gone somewhere.

27. P.Ws.9 and 10 have stated that in Jayamkondam Town they owned a house and a portion of the house was lying vacant. The accused brought P.W.2 on 03.09.2015. P.W.10 talked to him and fixed monthly rent at Rs.3,000/- for the said portion and she demanded Rs.2,000/- as advance. The accused paid Rs.1,000/- and promised to pay the balance later. This fact spoken by P.W.10 was also spoken by P.W.9 to some extent. There is no reason to reject the evidences of P.W.9 and P.W.10. Thus, from this evidence, it is clearly established that well in advance, i.e., one day before the occurrence, the accused had hatched a plan to bring P.W.2 to the house. That is why he took the house for rent on 03.09.2015 itself.

28. On 04.09.2015 according to P.W.10, the accused came to the house with the child P.W.2 and occupied the same. She has further stated that the accused took the victim child for shopping and returned in the evening. After return, ceremoniously they conducted house warming by boiling milk. Milk was boiled by P.W.2 and then she served the same to invitees including P.W.10. At that time, the accused introduced to P.W.10 that P.W.2 was his wife. P.W.10 also believed the same. Thereafter, they stayed in the house till 08.09.2015. On 08.09.2015 between 3.00 p.m and 3.30 p.m, the accused took P.W.2 and thereafter, did not return to the house. Thus, from the evidence of P.W.10, it has been clearly established that the accused had taken the victim child (P.W.2) from her village to Jayamkondam and stayed with her in the house between 04.09.2015 and 08.09.2015.

29. The very fact that they were living together in the

house and the fact that the accused introduced P.W.2 to P.W.10 as his wife would give irresistible inference that they were living together as husband and wife which otherwise means that the accused had sexual intercourse with her. Though the victim child had turned hostile and she has not stated that the accused had sexual intercourse with her, the fact that the accused had sexual intercourse with her is a matter of presumption from the above facts and the medical evidence. The doctor, who examined the victim child has deposed that there was rupture of hymen, indicating that she has been subjected to frequent sexual intercourse. The fact that the accused fixed rented house on 03.09.2015 itself; the fact that the accused brought P.W.2 and occupied the house; the fact that they went together for shopping and the fact that they celebrated house warming by boiling milk and distributed to others and the fact that the accused introduced P.W.2 as his wife and the last fact that they were living together in the same house till 08.09.2015 and the medical evidence would all give foundation to the Court to raise a presumption as required under Sec.29 of The Protection of Children from Sexual Offences Act, 2012 that the accused had committed the offences, for which he has been charged. Of course, this presumption raised under Sec.29 of the Act is rebuttable. We do not say that such presumption could be rebutted only by direct evidence. It can be rebutted either direct evidence or by circumstantial evidence. But in this case, the accused has failed to rebut the same. This unrebutted presumption would clearly go to prove that the accused had committed the offences.

30. Now the question is "What is the offence committed by the accused". We have already given our finding that the accused had taken P.W.2 from parental home of P.W.2 to Jayamkondam, kept her with him until 08.09.2015 and then dropped her again at her house. There is no controversy that she was aged 14 years and thus, she was a child in terms of the Act. Taking the child from the lawful guardianship of P.W.1 and P.W.3 and confining her would clearly make out an offence punishable under Sec.366 IPC. Similarly, since we have already concluded that the accused had sexual intercourse with P.W.2 and since undoubtedly, the accused was a public servant, the penetrative sexual assault committed by the accused on P.W.2 is an offence of aggravated penetrative sexual assault in terms of Sec.5(c) of the Act. Thus, the accused is liable to be punished under Sec.6 of The Protection of Children from Sexual Offences Act, 2012. The trial Court, in our considered view, was right in acquitting the accused from the charge under Sec.9 of Tamil Nadu Prohibition of Child Marriage Act, 2006.

31. Now, turning to the quantum of punishment, so far as

the sentence imposed on the accused for the offence under Sec.366 IPC is concerned, in our considered view, it is proportionate to the gravity of the offence and mitigating circumstances. There is no reason to interfere with the quantum of punishment imposed under Sec.366 IPC.

32. Now turning to the quantum of punishment imposed for the offence under Sec.6 of The Protection of Children from Sexual Offences Act, 2012, the said provision provides for punishment with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine. The trial Court has not chosen to impose imprisonment for life. As there is no appeal filed by the State, we cannot interfere with the same so as to enhance the same to life imprisonment. So far as the term of sentence is concerned, of course, Sec.6 of the Act does not prescribe this maximum sentence. Thus, the Court has been given discretion to impose imprisonment spreading for any number of years or months for the said offence. Keeping this in mind, the trial Court has imposed rigorous imprisonment for twenty years for the offence under Sec.6 of The Protection of Children from Sexual Offences Act, 2012. The learned counsel for the appellant would submit that the accused was already a married man, having two small children. He belongs to a downtrodden community and also a poor man. His wife and children are completely helpless. This, according to the learned counsel, is a mitigating circumstances. In our considered view, it may not be a mitigating circumstance, however, taking into account the age of the accused, his socio economic back ground, the fact that he is the first offender and he does not have any other bad antecedents, we are of the view that reducing the substantive sentence of imprisonment to 14 years with fine would meet ends of justice.

33. In the result, the appeal is partly allowed in the following terms:

- (i) the conviction and sentence imposed on the accused for the offence under Sec.366 IPC is hereby confirmed;
- (ii) the conviction of the appellant for the offence under Sec.6 of The Protection of Children from Sexual Offences Act, 2012 is confirmed, however, the substantive sentence of imprisonment is reduced to rigorous imprisonment for 14 years and the fine amount is confirmed.

(iii) The compensation, awarded by the trial Court is confirmed.

(iv) The above sentences are ordered to run concurrently.

(v) the period of sentence already undergone by the accused shall be set off under Section 428 Cr.P.C.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

sr

To

1. The Inspector of Police,
All Women Police Station,
Ariyalur

2. The Sessions Court,
(Fast Track Mahila Court),
Ariyalur

3. The Public Prosecutor,
High Court, Chennai.

4. The Superintendent Central Prison
Trichy

5. The District Collector
Ariyalur District

6. The Director General of Police
Mylapore

7. The Section Officer
Crl. Section High Court
Madras-104

+1 cc to Mr. Andiraj Advocate sr 14039

SVL(co)
aa15/03/2017

Crl.A.No.22/2017