

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.A.No.35 of 2019 and Crl.M.P.No.731 of 2019

Ravi @ Ravichandiran

...Appellant/Accused

-Vs-

The State Rep. by  
The Inspector of Police,  
Tiruppur North Police Station,  
(Crime No.1198/2014)

...Respondent/Complainant

This Criminal Appeal is filed under Section 374(2) of Cr.P.C. praying to set aside the judgment and sentence imposed on this appellant by the learned Magalir Neethimandram, (Fast Track Mahila Court), Tiruppur, passed in S.S.C.No.30 of 2016 dated 30.11.2018 and acquit the appellant.

For Appellant : Mr.R.Chittibabu

For Respondent : Mr.R.Ravichandran  
Government Advocate (Crl.Side)

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JUDGMENT

This criminal appeal has been filed against the judgment of conviction dated 30.11.2018 made in S.C.C.No.30 of 2016 by the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Tiruppur, for the offence under POCSO Act.

2 The respondent police has registered a case against the appellant/accused, based on the complaint given by P.W.2 father of the victim/P.W.1, for the offence under Sections 9(m) r/w 10, 11 (i) r/w 12 and 18 of Protection of Children from Sexual Offences Act, 2012 (in short 'POCSO Act'). After investigation, prosecution had filed a charge sheet before the learned Sessions Judge, Mahalia Neethimandram (Fast Track Mahila Court), Tiruppur, which was taken on file in Spl.S.C.No.30 of 2016. In order to prove the case of the prosecution, before the trial Court P.W.1 to P.W.6 were examined and Ex.P1 to Ex.P9 were marked and M.O.1 & M.O.2 were exhibited. On the side of the defense, the accused himself examined as D.W.1 and no document

was marked. The learned Sessions Judge, after advertng to the materials placed on record and after hearing both the parties, by judgment dated 30.11.2018 convicted the accused and sentenced him to undergo rigorous imprisonment for 7 years with fine of Rs.10,000/- for the offence under Section 9(m) r/w 10 of POCSO Act, in default, to undergo rigorous imprisonment for a further period of one year and sentenced to undergo rigorous imprisonment with fine of Rs.5000/- for the offence under Section 11(i) r/w 12 of POCSO Act, in default, to undergo rigorous imprisonment for a further period of 6 months.

3 Aggrieved against the said judgment of conviction, the accused has preferred the present criminal appeal.

4 According to the learned counsel for the appellant/accused, the accused has not committed any offence and in order to attract the charges levelled against the appellant, there should be physical relationship and the same should be proved by producing medical records. In the present case on hand, there is no eye witness and most of the witnesses are interested witnesses, who would naturally support the case of the prosecution. Ex.P6, AR Copy and Doctor's opinion does not reveal anything that the victim sustained external injuries. Under these circumstances, the Court below ought to have acquitted the appellant.

5 According to the learned Government Advocate (Crl.Side) appearing for the respondent that the victim is a boy who is eight years old at the time of occurrence and he has clearly identified the accused and has spoken about the offence committed by the appellant/accused which would attract offence under the POCSO Act. The trial Court after examining all the witnesses and after hearing both the parties, had come to the conclusion that the accused found guilty for the offence punishable under the POCSO Act. There is no reason to interfere with the judgment of conviction, when it is well founded.

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

7 On reading of the entire allegations made against the appellant, it would reveal that cases of this nature under the POCSO Act, the Court cannot expect any eye witness and the evidence of the victim itself would suffice to convict the accused. The victim boy, who is aged about eight years at the time of occurrence, has clearly narrated the incident and the involvement of the accused in the offence, which would clearly attract offence under Section 9(m) r/w 10, 11(i) r/w 12 of the POCSO Act. In the case on hand, there is no reason to discard the evidence of the victim. Further the appellant/accused did

not establish his defence by examining any witness. This Court does not find any special circumstances to take a different view in the present case on hand. For the offence under the POCSO Act, the accused should be punished with heavy terms of imprisonment, in order to give effective implementation to the Act. There is no iota of merit and substance in the present criminal appeal and hence the appeal is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

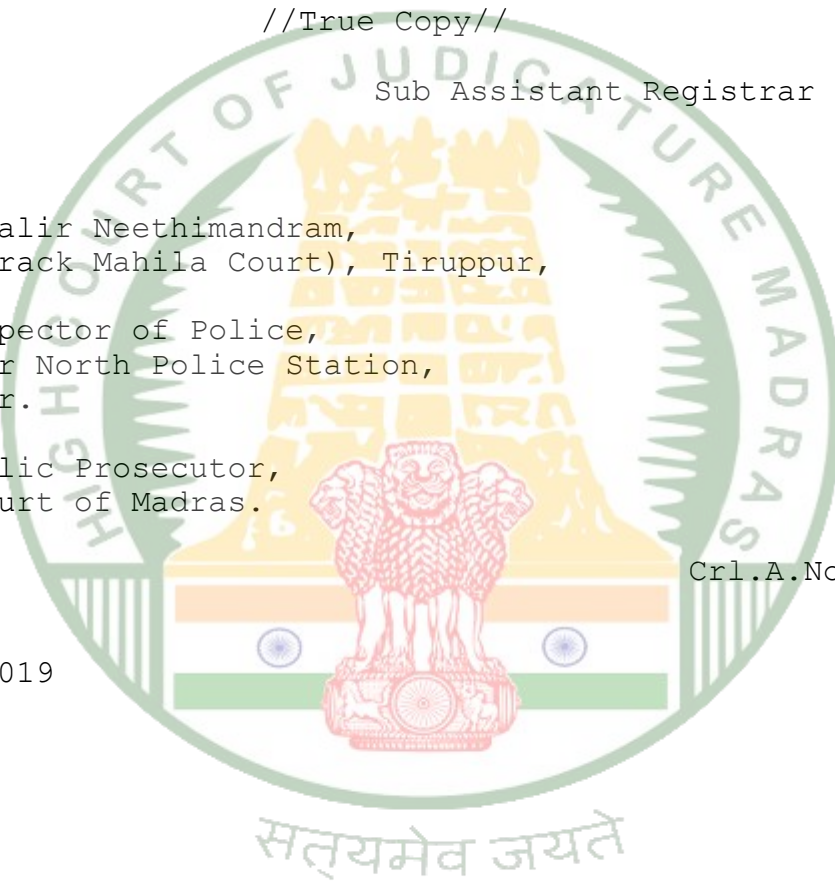
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To

1. The Magalir Neethimandram,  
(Fast Track Mahila Court), Tiruppur,
2. The Inspector of Police,  
Tiruppur North Police Station,  
Tiruppur.
3. The Public Prosecutor,  
High Court of Madras.

Cr1.A.No.35 of 2019

RSV(CO)  
NR/28/03/2019



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