

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.12.2020

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THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.A.No.509 of 2020

State

By The Station House Officer

Nedungadu Police Station

Karaikal thro' the Public Prosecutor for Puducherry

at the High Court, Madras

..Appellant

Vs.

Karunanithy

..Respondent

Criminal Appeal filed under Section 378 Cr.P.C., to set aside the judgment and order dated 17.07.2018 passed by the Sessions Judge, Karaikal in Spl.S.C.No.2 of 2017 and to consequently convict the respondent/accused for the offence punishable under Section 12 of POCSO Act, 2012, award maximum punishment.

For Appellant : Mr.D.Bharatha Chakravarthy
Public Prosecutor (Puducherry)

For Respondent : Mr.R.Rajarathinam
Legal Aid Counsel

J U D G M E N T

Challenging the judgment and order of acquittal dated 17.07.2018 passed by the Sessions Judge, Karaikal in Spl.S.C.No.2 of 2017, the State has preferred this Criminal Appeal.

2. Heard Mr.Bharatha Chakravarthy, learned Public Prosecutor appearing for the appellant/State and Mr.R.Rajarathinam, learned counsel for the respondent/accused.

3. It is the case of the prosecution that, the accused stood nude on 23.10.2013 around 16.00 hrs. in his house which was seen by Subha (P.W.1), who is his neighbour. Subha (P.W.1) told her father Sundaramoorthy (P.W.2) about this and on the complaint (Ex.P1) by Subha (P.W.1), a case in Crime No.97 of 2013 was registered by the police and after completing the investigation, the police filed a final report in Spl.S.C.No.2 of 2017 in the Court of the Sessions Judge, Karaikal for the offence under Section 12 of the POCSO Act against the accused. A charge for the offence under Section 12 of the POCSO Act was framed against the accused on his appearance and he pleaded 'not guilty'. The prosecution examined 9 witnesses and marked 6 exhibits.

4. After considering the evidence on record and on hearing either side, the trial Court, by judgment and order dated 17.07.2018 in Spl.S.C.No.2 of 2017 acquitted the accused, aggrieved by which, the present Criminal Appeal has been filed by the State.

5. This Court carefully perused the evidence of Subha (P.W.1) and Sundaramoorthy (P.W.2). A reading of their evidence shows that, the accused was having bath in the bathroom in his house naked. While he was having bath, Subha (P.W.1) went to the garden of her house and saw him naked. Thus, it is not the case of the complainant that, after she came to her garden, the accused had deliberately removed his dress and committed flashing. Unfortunately, the bathroom in the house of the accused is located behind his house bordering the house of P.W.1 and P.W.2. The accused was 57 years old, when the incident had taken place and the trial Court found that, he did not have any sexual intent to cause embarrassment to Subha (P.W.1). It is seen from the evidence of P.W.s 1, 2 and 3 that they did not have a bathroom in their house and that, they would attend to the nature's call in the backyard of their house.

6. It is trite that in an appeal against acquittal, when there are two views possible, the view favouring the accused merits acceptance. Hence, this Court does not find any serious infirmity in the judgment and order of acquittal passed by the trial Court, warranting interference.

In the result, this Criminal Appeal is dismissed.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

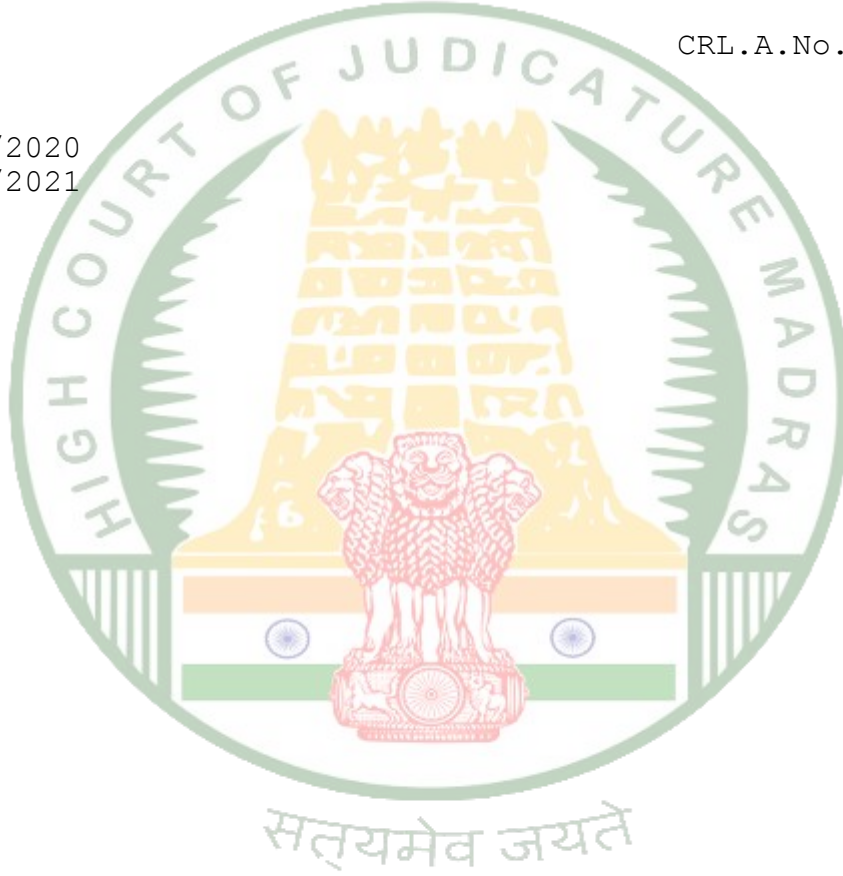
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To

1. The Additional Sessions Judge
Karaikal
2. The Station House officer,
Nedungadu Police Station,
Karaikal.
3. The Public Prosecutor (Puducherry),
High Court, Madras.

CRL.A.No.509 of 2020

CO(RP)
BDL/31/12/2020
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