



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Seventh day of July Two Thousand Twenty

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL MP(MD) No.2761 of 2020

IN

CRL A(MD) No.144 of 2015

SELVIN

... PETITIONER/APPELLANT/ACCUSED

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
SATHANKULAM POLICE STATION,
SATHANKULAM, THOOTHUKUDI DISTRICT,
CRIME NO.70/2013

... RESPONDENT/RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to permit the petitioner to take additional Evidence in the present Crl.A. (MD) No.144 of 2015 filed as against the Judgment dated 21/04/2015 in Special Case No.16 of 2014 on the file of the Learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi, Thoothukudi, Thoothukudi District pending disposal of the main Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.A.THIRUVADI KUMAR, Advocate for the petitioner and of MR.A.ROBINSON, Government Advocate (Crl. Side) on behalf of the Respondent, the court made the following order:-

The petition has been filed to permit the petitioner to take additional evidence in the present Crl.A.(MD).No.144 of 2015 filed as against the judgment dated 21.04.2015 in Special Case No.16 of 2014 on the file of the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi, Thoothukudi District, pending disposal of the main Criminal Appeal.

2. This appeal arising out of the conviction under the POCSO Act that the appellant had sexually exploited the victim girl. The trial Court proceeded with the school certificate relied by the prosecution for arriving at the age of the victim girl. However, in the Aadhaar Card of the victim girl, the date of birth is shown as 15.05.1991 and by this Aadhaar Card, the age of the victim girl as occurrence would be 22. Since the entire conviction



is based upon the age of the victim girl, the appellant has filed the petition under Section 389(1) of Cr.P.C., to take the Aadhaar Card as an additional evidence in Crl.A.(MD).No.144 of 2015.

3. The learned Additional Public Prosecutor has strongly opposed the petition that the school certificate is the authenticated proof for arriving at the date of birth, in the absence of any birth certificate. The trial Court has also taken into account the school certificate produced during the course of trial and the Aadhaar Card issued in the year 2015 cannot be taken as an additional document to be considered along with this appeal.

4. Considering the fact that since the conviction is made based on the age of the victim girl and the appellant has also come with the document of Aadhaar Card which is an authenticated identity proof of any individuals as declared by the Government, this petition is allowed without referring to the applicability of this document for deciding the appeal. The applicability of this document can be raised by the appellant as well as the learned Additional Public Prosecutor, when the matter is taken up for final disposal.

5. Post the criminal appeal for final disposal on 29.07.2020.

sd/-
07/07/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM
(FAST TRACK MAHILA COURT),
THOOTHUKUDI, THOOTHUKUDI DISTRICT.
- 2 THE INSPECTOR OF POLICE,
SATHANKULAM POLICE STATION,
SATHANKULAM, THOOTHUKUDI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.2761 of 2020
IN
CRL A(MD) No.144 of 2015
Date :07/07/2020

AKV

<https://hcmjcs.org.in/Services/34/53/69A/Bv.0/13/07.2020/2P/4C>