



BAIL SLIP

The 1st Appellant herein / 1st Accused viz Murugan S/o.Packianathan was released on bail vide Order of this Court dated 09.12.2016 CrI.MP.No.11340/2016 in CrI.A.(MD).No.55 of 2016 in the file of this Court.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.08.2021

Pronounced on : 09.09.2021

C O R A M

THE HON'BLE MR.JUSTICE R. PONGIAPPAN

Criminal Appeal (MD) No.55 of 2016

1.Murugan, S/o.Packianathan
2.Anandhi, W/o.Murugan

... Appellants /
Accused Nos.1 & 2

versus

The State of Tamil Nadu,
Represented by
The Inspector of Police,
All Women Police Station,
Nagercoil,
Kanyakumari District.
(Crime No.12 of 2013)

... Respondent / Complainant

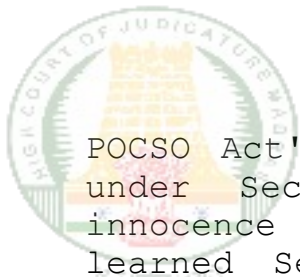
PRAYER : Criminal Appeal filed under Section 374(2) of the Code of Criminal Procedure, against the judgment of conviction and sentence, dated 29.01.2016 passed in S.C.No.113 of 2013, by the learned Sessions Judge (Fast Track Mahila Court), Nagercoil, Kanyakumari District.

For Appellants : Mr.N.Dilipkumar
For Respondent : Mr.M.Muthumanikkam
Government Advocate (CrI. Side)

J U D G M E N T

This appeal is directed against the conviction and sentence dated 29.01.2016, passed in S.C.No.113 of 2013, by the learned Sessions Judge (Fast Track Mahila Court), Kanyakumari District at Nagercoil.

2.The appellants are arrayed as Accused Nos.1 and 2 in the above referred case. The first accused stood charged for the offence under Sections 4, 7 and 8 of the Protection of Children

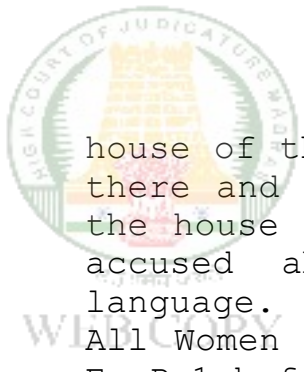


POCSO Act']. The second accused stood charged for the offence under Sections 294(b) and 506(i) IPC. The accused pleaded innocence and opted for trial. After full-fledged trial, the learned Sessions Judge (Fast Track Mahila Court), Kanyakumari District at Nagercoil, came to the conclusion that the first appellant/first accused is guilty of offence under Section 4 of the POCSO Act and convicted and sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs.5,000/-, in default, to undergo rigorous imprisonment for six months. Further, it was concluded that the second appellant/second accused is guilty of offence under Section 294(b) IPC and ordered to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month. In respect of other charges framed against the appellants, the trial Court acquitted them in terms of Section 235(1) Cr.P.C.

3.Challenging the said conviction and sentence, the appellants are before this Court with this criminal appeal.

4.The case of the prosecution is as follows:-

(i) P.W.1 - Kannaki is the mother of the victim child. She has got two female children viz., the victim child and another. P.W.3 - Suresh is her husband. P.W.1 knows both the accused. During the relevant point of time, the victim child was aged about 6 years and studying in U.K.G. On the day of occurrence, i.e., on 12.03.2013 due to Mandaikadu Amman Temple festival, the school, in which the victim child has studied, declared holiday and hence, P.W.2 victim child was in her house along with her mother [P.W.1] and grandmother - Kaliyammal [P.W.17]. Since the mother of P.W.1 viz., Suseela was not well, P.W.1 took her to the Hospital and she left behind her elder daughter viz., the victim child with her grandmother - Kaliyammal [P.W.17] and P.W.1 gave one rupee to her to buy chocolates. After she returned from the Hospital at 10.30 a.m., the victim child was telling something to her grandmother and was crying and when P.W.1 asked her daughter why she was crying, her daughter told that when she got chocolates from the shop of the first accused Murugan, he after giving chocolates, caught her and took her to his house, closed the door and took his male organ and inserted it in her mouth and also rubbed it on her breast and on her private parts. Immediately, P.W.1 took her daughter to the shop of the first accused and when P.W.1 questioned the first accused, he replied that he did not do anything and hence, P.W.1 came back to her house with her daughter. At that time, since her husband was working in Trichy, she conveyed the incident to him after six days i.e., on 18.03.2013. Immediately, after knowing the same, P.W.3, who is the father of the victim child, came to his native place from Trichy on 19.09.2013 and he along with his wife went to the



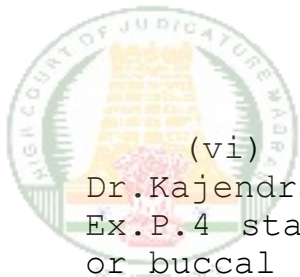
house of the first accused - Murugan at 09.30 a.m., but he was not there and only his wife viz., the second accused - Anandhi was in the house and when P.W.1 and her husband - P.W.3 asked the second accused about the occurrence, she scolded P.W.1 in filthy language. Thereafter, P.W.1, P.W.3 and the victim child went to All Women Police Station, Nagercoil, and lodged a complaint under Ex.P.1 before P.W.18.

(ii) P.W.18 - Shanthi, the then Sub-Inspector of Police, All Women Police Station, on 19.03.2013 around 13 hours, while she was on duty, received the complaint from P.W.1 and registered a case against the accused in Crime No.12 of 2013 under Sections 377, 294 (b) and 506(i) IPC and Section 4 of the POCSO Act. The printed F.I.R. has been marked as Ex.P.7.

(iii) Immediately, after registration of the case, she handed over the copy of the F.I.R. to P.W.19 - Santha Kumari, the then Inspector of Police, All Women Police Station, Nagercoil. On receipt of the copy of the F.I.R., P.W.19 took up the same for investigation. On the same day, around 14 hours, she visited the scene of occurrence and in the presence of P.W.4 - Sundaram and one Surendran, she prepared an Observation Mahazar under Ex.P.2. She drawn the Rough Sketch and the same has been marked as Ex.P.8. On the same day, she examined the witnesses Kannaki [P.W.1], the victim child [P.W.2], Suresh [P.W.3], Kaliyammal [P.W.17], Surendran, Sundaram [P.W.4] and Shanthi [P.W.18], the then Sub-Inspector of Police and recorded their statements. On 19.03.2013 around 17 hours, near Parakkai Junction, she arrested both the accused and made arrangements for sending them to judicial custody. On 20.03.2013, she gave a requisition letter [Ex.P.9] through one Stanley John, the then Head Constable and Komala Kumar, the then Special Sub-Inspector of Police [P.W.14] to the learned Judicial Magistrate No.II, Nagercoil, to send the first accused for medical examination.

(iv) In turn, in view of the proceedings issued by the learned Judicial Magistrate No.II, Nagercoil, on 22.03.2013, P.W.14 - Komala Kumar, produced A1 before P.W.15 for medical examination and on such production, P.W.15 - Dr.Rajesh, the then Assistant Professor attached with the Government Medical College Hospital, Kanyakumari, on 23.03.2013 examined the first accused and issued certificate under Ex.P.5, stating that there is nothing to suggest that the first accused is incapable of performing sexual intercourse.

(v) Similarly, in view of the proceedings issued by the learned Judicial Magistrate, P.W.11 - Dr.Deepa attached with the same Hospital, examined the victim child and issued an Accident Register copy [Ex.P.3] as no injury on the body and on the external genitalia of the victim child. She collected vaginal swab and buccal swab from the victim child and sent the same for chemical examination.



(vi) On receipt of the above said samples, P.W.12 - Dr.Kajendra Varathan, examined the same and issued report under Ex.P.4 stating that no semen was detected on either vaginal swab or buccal swab.

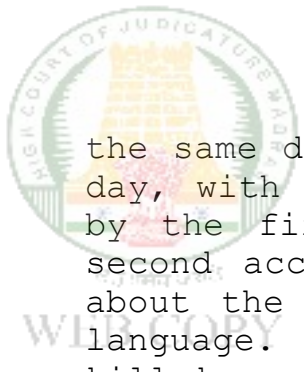
(vii) In continuation of investigation, P.W.19 examined the Doctors and recorded their statements. She collected the Birth Certificate of the victim child [Ex.P.10] from P.W.1. She submitted an application before the Chief Judicial Magistrate for recording 164 Cr.P.C. statements from P.W.1, P.W.2 and P.W.17 and in view of the order passed by the learned Chief Judicial Magistrate, P.W.16 - Tmt.J.Jenitha, the then learned Judicial Magistrate No.III, Nagercoil, examined P.W.1, P.W.2, P.W.5 and P.W.17 and recorded their statements under Section 164 Cr.P.C. [ExP.6]. Ultimately, after concluding the investigation, P.W.19 came to the positive conclusion that the first accused is liable to be convicted under Section 377 IPC and Sections 4, 7 and 8 of the POCSO Act and the second accused is liable to be convicted under Sections 294(b) and 506(i) IPC. She filed a final report accordingly.

5.From the above materials, the learned Sessions Judge (Fast Track Mahila Court), Kanyakumari District at Nagercoil, framed charges under Sections 4, 7 and 8 of the POCSO Act against the first accused, also charges have been framed under Sections 294(b) and 506(i) IPC against the second accused. Both the accused denied the charges and opted for trial. Hence, in order to prove their case, on the side of the prosecution, 19 witnesses have been examined as P.W.1 to P.W.19 and 11 documents were marked as Exs.P.1 to P.11.

(i) Out of the said witnesses, P.W.1 - Kannaki, who is the mother of the victim child speaks about the occurrence as during the relevant point of time, after giving one rupee to the victim child for buying chocolates, P.W.1 went to the Hospital along with her mother. After she returned from the Hospital, the victim child made complaint against the first accused as when at the time she went to the Al's shop for buying chocolates, the first accused brought her to his house and made sexual assault by inserting his male organ on the various parts of the body of the victim child.

(ii) P.W.2 is the victim girl. She speaks about the occurrence as during the relevant point of time when she went to the shop, which run by the first accused, for buying chocolates, after giving chocolates, he brought her to his house and made sexual assault on her as alleged by the prosecution.

(iii) P.W.3 - Suresh is the father of the victim child. He claims that on 18.03.2013 when he was in Trichy, P.W.1 contacted him through Mobile Phone and informed about the occurrence. On



the same day night, he returned to his native place. On the next day, with a view to make enquiry, he went to the Petty Shop, run by the first accused, along with P.W.1 and P.W.8, wherein the second accused alone was found available. When they questioned about the occurrence with her, she abused P.W.1 by using filthy language. Further, she criminally intimidated P.W.1 as she would kill her. Thereafter, P.W.3 and P.W.1 went to the Police Station and lodged the complaint.

(iv) P.W.4 - Sundaram gave evidence as he is a resident of Kulathoor Village and he knows both the accused. According to him, on 19.03.2013 around 02.00 p.m., the Investigation Officer in this case came to the house of the first accused and prepared Observation Mahazar.

(v) P.W.5 - Suseela is the mother of P.W.1. She speaks about the occurrence as on 12.03.2013 when she was suffering from illness, P.W.1 brought her to the Hospital and at the same time, P.W.2 and Kaliyammal [P.W.17] were in their house. After returning from hospital, the victim child cried and informed the occurrence as the first accused had sexually assaulted her.

(vi) P.W.6 - Natesan, who is the relative of P.W.1, before the trial Court narrated the occurrence as the same was informed to him by P.W.1.

(vii) P.W.7 - Sundaram, a resident of the same locality, gave evidence as on 12.03.2013 around 07.30 a.m. when he went to attend his regular work, he saw that P.W.2 was standing near A1's Petty Shop.

(viii) P.W.8 - Rajkumar, who is the brother of P.W.3, speaks about the occurrence as on 18.03.2013 when he went to A1's Shop along with P.W.1 and P.W.3 regarding the attitude committed by the first accused, the second accused, who is present there, denied the entire occurrence, abused P.W.1 in filthy language and further by using nut crackers [ghf;Fntl;b] threatened P.W.1 and P.W.3.

(ix) P.W.9 - Stanley John, the then Head Constable of Kottar Police Station, gave evidence as in view of the reference issued by the learned Judicial Magistrate No.II, Nagercoil, he produced the accused before the Doctor for medical examination.

(x) P.W.10 - Thomas Laisa, the then Special Sub-Inspector of Police attached with All Women Police Station, Nagercoil, gave evidence as during the time of investigation, she has produced the victim child before the Doctor.

(xi) P.W.11 - Dr.Deepa claims that on 20.03.2013 when she was in Government Medical College Hospital, Asaripallam, the victim child was produced before her for medical examination. When at the time, P.W.1 made complaint before her that when her daughter [P.W.2] got chocolates from the shop of the first accused - Murugan, he after giving chocolates, caught her and took her to his house, closed the door and took his male organ and inserted it in her mouth and also rubbed it on her breast and on her private



parts. She collected vaginal swab and buccal swab from the victim child and sent the same for chemical examination.

(xii) P.W.12 - Dr.Gajendra Varathan, speaks about the examination of Vaginal swab and buccal swab collected from the victim child.

(xiii) P.W.13 - Rathish, a resident of Ramapuram speaks that on 19.03.2013 when he went to Kolathur to receive the salary, near Al's Petty Shop, he saw the incident that both P.W.1 and the second accused quarrelled with each other.

(xiv) P.W.14 - Komala Kumar, the then Special Sub-Inspector of Police would state that after registration of the case, during the time of investigation, he produced the first accused before the Doctor for medical examination.

(xv) P.W.15 - Dr. Rajesh Speaks about the details of medical examination conducted on the first accused.

(xvi) P.W.16 - Tmt.Jenitha, the then learned Judicial Magistrate No.III, Nagercoil, before the trial Court, narrated the incident in respect of Crime No.12 of 2013, on the file of the respondent Police as on 31.05.2014, she recorded 164(5) Cr.P.C. statement from P.W.1 to P.W.3.

(xvii) P.W.17 - Kaliyammal, who is the mother of P.W.1, speaks about the occurrence similar to the evidence given by P.W.1.

(xviii) P.W.18 and P.W.19, who are the Police Officers, gave evidence in support of the receipt of complaint and details of investigation and about the filing of final report.

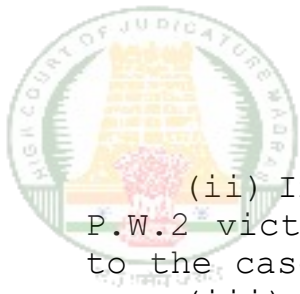
6.When the above incriminating materials were put to the accused under Section 313 Cr.P.C., both the accused denied the same as false. However, they did not chose to examine any witness nor mark any document on their side.

7.Having considered the materials placed before him and on considering the submissions made by the learned counsels on either side, the learned Sessions Judge [Fast Tack Mahila Court], Kanyakumari District at Nagercoil, found the accused 1 and 2 guilty under Section 4 of the POCSO Act and Section 294(b) IPC respectively and sentenced as stated Paragraph No.2 of this judgment.

8.I have heard the learned counsel appearing for the appellants and the learned Government Advocate (Criminal side) appearing for the State and perused the materials on record.

9.The learned counsel appearing for the appellants would assail the conviction and sentence on the following grounds:-

(i) Without any reason, the complaint pertains to the occurrence had been lodged before the respondent with a delay of eight days.



(ii) In respect of sexual assault made by the first accused, P.W.2 victim girl had given two sets of evidence, which are fatal to the case of prosecution.

(iii) Except the close relatives of P.W.1, no independent witnesses were examined on the side of the prosecution.

(iv) It is an admitted fact that the accused and the family members of the victim child are having previous enmity.

(v) The whole evidence given by the victim child reveals the fact that during the time of occurrence, there was no penetrative sexual assault as described in Section 3 of the POCSO Act.

10. Per contra, the learned Government Advocate (Criminal side) appearing for the State contended that the evidence given by the victim child had formed a strong foundation in favour of the prosecution case. In the said circumstances, after complying with Section 29 of the POCSO Act, the Court presumed that the accused were found guilty therefore, interference in the findings arrived at by the trial Court does not require.

11. I have considered the rival submissions made by the learned counsel appearing on either side.

12. Primarily, on considering the said submissions with the relevant records, it is not in dispute that the alleged occurrence had happened on 12.03.2013. Subsequent to that, the complaint pertains to this occurrence had been lodged before the Police on 19.03.2013 around 01.00 p.m. with a delay of seven days. In respect of the said delay, P.W.1, who is the author of the complaint, has stated that only after six days from the date of occurrence, the incident was informed to her husband, who was in Trichy and then only, he came and lodged the complaint. In respect of the said delay, she had not offered any explanation as under what circumstances she had not informed the occurrence to her husband immediately. In this regard, in her cross-examination, she has stated that considering the future of the victim child, she has not lodged the complaint immediately. Now, on considering the said evidence, normally, being the wife having cordial relationship with her husband, definitely would inform this type of occurrence to her husband first, but in this case, the evidence given by P.W.1 is found contra to the said circumstances, therefore, the same creates a doubt over her evidence.

13. One another aspect in this regard is that, before the trial Court, the brother of P.W.3 was examined as P.W.8. According to him, P.W.1 informed the occurrence to her husband immediately and



thereafter, on the next day, P.W.1's husband informed the same to him. He has further added that he asked the whereabouts of the first accused to the second accused nearly for a period of five days, for which, the second accused informed him that the first accused went to Madurai for receiving salary, which relates to a Pooja performed in a Temple at Kulathur.

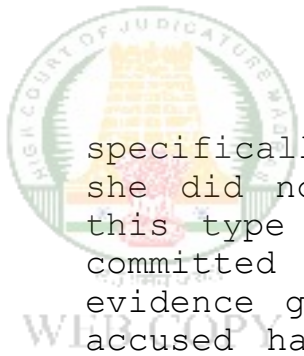
14.He has further stated, only on 19.03.2013 P.W.3 returned to his house and after enquiring the same with the second accused, lodged a complaint before the respondent Police. Hence, in respect of informing the occurrence to her husband, P.W.1 had given false evidence as only after six days from the date of occurrence, she had informed the occurrence to her husband. However, considering the nature of offence alleged to be committed by the accused, I am of the opinion that the delay, which occurred in respect of lodging of complaint, is natural one.

15.In fact, there is no time constraint fixed by legislature or the judiciary for giving the information of crime to the police. However, it has been observed that FIR has to be filed within a reasonable time. The question of reasonable time is a matter for determination of court in each case. Mere delay in lodging the FIR with the police is not necessarily a matter of law, fatal to prosecution.

16.Here, it is a case, it is alleged that the first accused committed penetrative sexual assault over the minor girl child, who was aged about 6 years. Therefore, considering the future of the said child, every parents in the said situation, will suppress the said issue without disclosing the fact to the others. Due to the said circumstances, automatically, the delay would occur and hence, I am of the opinion that in the present case, the delay of six days in lodging the FIR alone is not sufficient to accept the case of the defence.

17.Secondly, it is true that either P.W.1 or P.W.2 while at the time of giving evidence has stated as the occurrence had happened only on 12.03.2013. On the other hand, in 164(5) Cr.P.C. statement, the victim child has given a statement before the learned Judicial Magistrate No.III, Nagercoil, as the first accused regularly committed this type of offence. In this regard, P.W.16 - Tmt.Jenitha, the then learned Judicial Magistrate No.III, Nagercoil, had admitted in her cross-examination as the victim child has stated that the first accused had committed the same type of offence in several times.

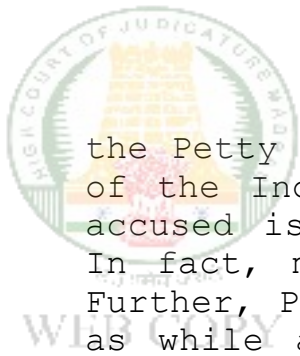
18.In the said situation, it is relevant to see the entire evidence given by P.W.2. In her cross-examination, she has



specifically stated before the learned Judicial Magistrate that she did not say that the first accused had regularly committed this type of offence. Hence, in respect of number of attempts committed by the first accused, there was contradiction in the evidence given by P.W.2. However, even assuming that the first accused had not committed this type of offence frequently, the same is not in consequence with the alleged charge framed against the first accused. Therefore, the said circumstance creates a doubt whether P.W.2 had stated the real occurrence before the trial Court. In this regard, in the interest of justice, on going through 164 Cr.P.C. statement, it seems that only due to reason that on the alleged day since P.W.2 sustained severe pain, she informed the same to her mother [P.W.1]. In otherwise, the story projected by P.W.2 either before the trial Court or in 164 Cr.P.C. statement are all relevant that the first accused had committed the offence on the alleged day, for which, the charge has been framed. Accordingly, the second submission made by the learned counsel appearing for the appellants also not having much force in the way of assailing the case of prosecution.

19. In respect of the third submission made by the learned counsel appearing for the appellants, it is true that except the relatives of the minor child, none have been examined on the side of prosecution to prove the occurrence. Now, on considering the said issue, the present case has been registered against the accused alleging that the first accused committed penetrative sexual assault on P.W.2, therefore, considering the facts and circumstances, it is necessary to see the judgment of our Hon'ble Apex Court in the case of **Raju and others Vs. State of Madhya Pradesh** reported in **2008 (15) SCC 133**, wherein it has been observed and held that ordinarily the evidence of a prosecutrix should not be suspected and should be believed and if the evidence is reliable, no corroboration is necessary.

20. In the said situation, it is necessary to decide whether the evidence given by P.W.2 in respect of the occurrence is found cogent and inspires the confidence of this Court. As rightly pointed out by the learned Government Advocate (Criminal side) either in 164 Cr.P.C. statement or in the evidence given before the trial Court, P.W.2 victim child, after identifying the first accused, narrated the story as after she got chocolates from the shop of the first accused Murugan, he caught her and brought to his house, closed the door and took his male organ and inserted it in her mouth and also rubbed it on her breast and on her private parts. The said evidence appears cogent and reliable one. One another aspect is that, the evidence of P.W.1 and P.W.8 reveals the fact that after the occurrence, the first accused in this case, had absconded and not attended his duty regularly by opening

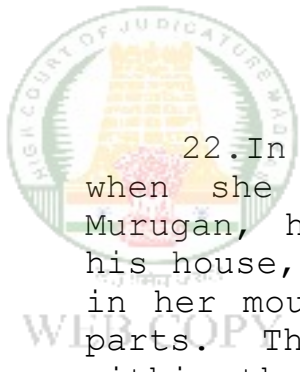


the Petty shop, which was run by him. Therefore, as per Section 8 of the Indian Evidence Act, the subsequent conduct of the first accused is also relevant to accept the case of the prosecution. In fact, minor discrepancy is nothing but a guarantee of truth. Further, P.W.11 - Dr. Deepa, who examined the victim child, deposed as while at the time of producing the victim child for medical examination, her mother has complained the occurrence as narrated by P.W.2 before the Court. Therefore, the said evidence is also relevant to accept the case of prosecution. In the said circumstances, it is for the accused to show that the presumption under Section 29 of the POCSO Act cannot be inferred in this case.

21. In this regard, in order to rebut the presumption on the side of the accused, it was suggested before P.W.1 that due to previous enmity, a false case has been registered against the appellants. In this regard, it was admitted by P.W.1 that after reliving her uncle from the post of Priest, the first accused was posted as Priest. Further, it is a story put forth by the accused that the marriage between P.W.1 and P.W.3 was agitated by the first accused as P.W.1 was pregnant at the time of marriage. Though the said story put forth by the defence is accepted by the prosecution witnesses by way of admission made by them, before accepting the case of defence, it would be relevant to see the other circumstances, which arose in the story put forth by the defence. According to the appellants, since the first accused refused to give permission to perform the marriage of P.W.1 in the Temple, the post of Priest has been changed from the first accused to some others. In otherwise, considering the age of the victim child, the marriage ceremony of P.W.1 was performed may be in the year 2006 and thereafter, the alleged occurrence had happened in the year 2013, after a lapse of nearly seven years. Further, both the victim child and the accused are residing in the same Village and street. Therefore, it cannot be said that the present complaint has been lodged due to previous enmity. Further, in order to substantiate the story put forth by the defence, no witness has been examined on the side of the accused as defence witness. In the said occasion, since the first accused was convicted under Section 4 of the POCSO Act, it is necessary to see the evidence given by the victim child, which alone is sufficient to hold that the first accused herein had committed penetrative sexual assault on P.W.2. In this regard, Section 3(a) of the POCSO Act, reads as follows:-

''3. Penetrative sexual assault.

(a) he penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a child or makes the child to do so with him or any other person;''

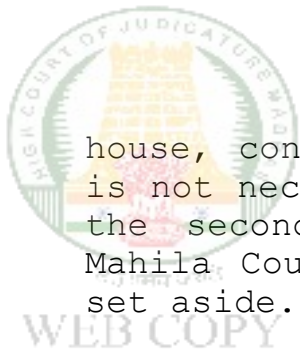


22. In respect of the same, P.W.2 victim child gave evidence as when she got chocolates from the shop of the first accused Murugan, he after giving chocolates, caught her and took her to his house, closed the door and took his male organ and inserted it in her mouth and also rubbed it on her breast and on her private parts. Therefore, the said act committed by the first accused is within the ambit of Section 3 of the POCSO Act. Further, through the impugned judgment rendered by the learned Sessions Judge, Fast Track Mahila Court, Kanyakumari District at Nagercoil, the second appellant/second accused was convicted under Section 294(b) I.P.C.

23. In respect of the said conviction, the learned counsel appearing for the appellants contended that the evidence given by P.W.1 narrates the fact that the alleged occurrence in respect of offence under Section 294(b) I.P.C. had happened in the house of the first accused and therefore, the said alleged act committed by the second accused is not within the purview of Section 294(b) I.P.C. On the other hand, the learned Sessions Judge without seeing the said aspect, convicted the second accused under Section 294(b) I.P.C., which is erroneous in law.

24. Now, on considering the said submissions with the relevant records, in the complaint alleged to be given by P.W.1, it has been stated that during the time when P.W.1 and her husband questioned about the whereabouts of the first accused, the second accused abused P.W.1 by using filthy language. Though it was alleged that the said occurrence was seen by the Village people, while at the time of giving evidence as P.W.1, she narrated the said incident as on 19.03.2013 around 09.30 a.m. when at the time she went to the house of the first accused, the second accused abused her by using filthy language. Now, on seeing the said evidence with the averments found in the First Information Report, it is seen that though it was stated in the F.I.R. as the said offence had been committed in the Public place, the evidence given by P.W.1 is clear that the said occurrence had happened in the house of the first accused and therefore, it cannot be said that the second accused herein abused P.W.1 by using filthy language in the public place.

25. It is settled law that to attract Section 294(b) I.P.C., it is necessary for the prosecution to prove that the offence had been committed in the public place. Public place is one where the public go, no matter whether they have a right to go or not. It is obvious that what is the public place may vary from time to time and what the Court has to consider is whether the particular place is a public place or not. In this aspect, as rightly pointed by the learned counsel appearing for the appellants that since the alleged act committed by the second accused within her



house, convicting her for the offence under Section 294(b) I.P.C. is not necessary. Accordingly, conviction and sentence imposed on the second accused by the learned Sessions Judge, Fast Track Mahila Court, Kanyakumari District at Nagercoil, is liable to be set aside. Accordingly, the same is set aside.

26. In the result, this Criminal Appeal is dismissed in respect of the first accused and insofar as the second accused is concerned, this Criminal Appeal is allowed and she is acquitted from the charge. The fine amount, if any, paid by her shall be refunded to her. The trial Court is directed to secure the first appellant / A1 and commit him to prison for undergoing the remaining period of sentence.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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To

1. The Sessions Judge,
Fast Track Mahila Court,
Kanyakumari District at Nagercoil.
2. The Judicial Magistrate No.II
Nagercoil, Kanyakumari District.
3. Do-Through The Chief Judicial Magistrate,
Kanyakumari at Nagercoil.
4. The Superintendent,
Central Prison, Palayamkottai,
Tirunelveli District.
5. The Inspector of Police,
All Women Police Station,
Nagercoil, Kanyakumari District.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



7.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court,
Madurai.

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+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-28882[F] dated 13/09/2021)

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