



Crl.A.No.119 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Judgment Reserved On 17.03.2023	Judgment Pronounced On 30.08.2023
------------------------------------	--------------------------------------

Crl.A.No.119 of 2017

1.Krishnamurthy, S/o.Balasundaram
2.Shanthi, W/o.Balasundaram
3.Sangeetha, W/o.Chakkaravarthi
4.Chakkaravarthi, S/o.Dharmarajan ... Appellants/A1 to A4

Vs.

The State,
Rep. by the Inspector of Police,
All Women Police Station,
Jayankondam,
Ariyalur District.
(Crime No.9 of 2016) ... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 374 of Cr.P.C., to set aside the order of conviction and sentence dated 03.01.2017, made in Special S.C.No.21 of 2016, on the file of the learned Sessions Judge, Fast Track Mahila Court, Ariyalur and allow the Criminal Appeal.



Crl.A.No.119 of 2017

WEB COPY

For Appellants : Mr.C.Prabakaran
For Respondent : Mr.L.Baskaran
Government Advocate
(Criminal side)
Amicus curiae : Mrs.B.S.Ajeetha

JUDGMENT

The appellants herein are Accused Nos.1 to 4 in Special Sessions Case No.21 of 2016, on the file of the Fast Track Mahila Court, Ariyalur. They stood charged for the offences as under:-

Rank	Charges
A1	Section 9 of the Prohibition of Child Marriage Act, 2006; Section 4 of the Protection of Children from Sexual Offences Act, 2012 [in short, 'POCSO Act']; and Section 323 I.P.C.
A2 to A4	Section 10 of the Prohibition of Child Marriage Act, 2006; and Section 4 read with Section 17 of the POCSO Act.

After trial, by judgment dated 03.01.2017, the Trial Court convicted them as under:-



Crl.A.No.119 of 2017

WEB COPY

Rank	Conviction under Section	Sentence
A1	Section 9 of the Prohibition of Child Marriage Act, 2006	To undergo rigorous imprisonment for two years and to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for one month.
	Section 4 of POCSO Act	To undergo rigorous imprisonment for ten years and to pay a fine of Rs.1000/-, in default, to undergo simple imprisonment for six months.
	Section 323 I.P.C.	To undergo simple imprisonment for six months and to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for one month.
A2 to A4	Section 10 of the Prohibition of Child Marriage Act, 2006	To undergo rigorous imprisonment for one year and to pay a fine of Rs.500/- each, in default, to undergo simple imprisonment for three months.
	Section 4 read with Section 17 of the POCSO Act	To undergo rigorous imprisonment for ten years and to pay a fine of Rs.500/- each, in default, to undergo simple imprisonment for six months.

The sentences were ordered to run concurrently. Challenging the said conviction and sentences, the appellants are before this Court with this



Crl.A.No.119 of 2017

criminal appeal.

WEB COPY

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

(i) The victim girl [P.W.2], who was aged about 13 years as on 2016, is the daughter of A4 and her date of birth is 04.06.2003. She lost her mother when she was three months old. She was studying 9th Standard in a Government School at the time of marriage. Sangeetha (A3) is her step mother. After the death of the victim girl's mother, her father (A4) married A3. After that, victim girl was not properly taken care by both her step mother (A3) and father (A4), hence, the victim girl was staying in her grandmother's house.

(ii) A3 and A4 arranged marriage for the victim girl with Krishnamoorthy (A1). Accordingly, on 19.08.2016 between 06.00 a.m. and 07.30 a.m., A1 married the victim girl in the presence of A2 to A4 in a Temple. Thereafter, the victim girl was taken to the house of A1 and A2. On 23.08.2013 at 10.00 p.m. in the night hours, A1 forcibly committed penetrative sexual assault on the victim girl. Thereafter, whenever A1 demanded for sexual intercourse, the victim girl told him that she would commit suicide if she was forced again. On 14.09.2016 at about 09.00 p.m.,



Crl.A.No.119 of 2017

A1 beaten the victim girl with a plastic pipe. Hence, she left the house of A1 and A2 and called Child Line (1098) and got help from them.

(iii) A complaint was lodged by one Suguna (P.W.1), Organizer of Child Line, Ariyalur District. On the basis of the said complaint (Ex.P.1), the respondent Police registered a case in Crime No.9 of 2016 against A1 to A4 for the offences under Sections 9 and 10 of the Prohibition of Child Marriage Act, 2006, Sections 4 and 17 of the POCSO Act and Section 323 I.P.C. A1 and A2 were arrested and subsequently, released on bail. A3 and A4 surrendered and released on bail. After completion of investigation, final report filed before the Trial Court. The Trial Court framed charges against A1 to A4 as mentioned above and after trial, convicted and sentenced them as mentioned supra.

3.In order to bring charges to home, the prosecution examined 17 witnesses as P.Ws.1 to 17 on its side and marked 15 documents, viz., Exs.P.1 to P.15. However, the prosecution did not mark any material object.



CrI.A.No.119 of 2017

3.1. P.W.1 Suguna, Organizer of Child Line (1098) at Ariyalur. Upon receipt of information through Phone from Chennai Office about child marriage of the victim girl, on 23.09.2016 P.W.3 Elakiya and P.W.4 Paramasivam, the Members of the Child Line Organization, Ariyalur, visited the Village, where the victim girl was staying, gathered information. Thereafter, the victim girl was brought to the Office of Child Line at Ariyalur. After inquiring the victim girl, P.W.1 lodged a complaint with the respondent Police on 24.09.2016, which marked as Ex.P.1.

3.2. P.W.2 victim girl deposed that her date of birth was 06.04.2003. She narrated about her marriage with the first accused. As per her version, on 19.08.2016 at about 07.00 a.m. she was taken to an Iyyanar Temple, situated at Udayarpalayam – Cholankurichi Road, by her father (A4) and step mother (A3), where A1 and A2 present. In the presence of P.W.6 Ramalingam, Priest of the Temple, P.W.7 Senthamilselvi, wife of P.W.6 and others, A1 tied Mangalsutra around the neck of the victim girl and married her. After the marriage, the victim girl taken to the house of A1 and A2, at Malangan Kudiyiruppu, where they lived for nearly one month. Further, as



CrI.A.No.119 of 2017

per her oral testimony, A1 committed penetrative sexual assault on 24.08.2016, on the next day, A1 again attempted sexual intercourse with her. Since victim girl refused, A1 beaten her with stick. Thereafter, victim girl informed A1 that she would not live with him anymore and to leave her at her parents' house. On the next day, A1, A2 and an old lady, Chinnaponnu took the victim girl to her house and left her there. A3 refused to take the victim girl. Hence, the victim girl stayed with one Anjalai near her grandmother's/P.W.5's (Thatchayani) house. P.W.5 visited her house and asked the victim girl to lodge a complaint about the child marriage. The victim girl informed the same to her father (A4), but he did not say anything. Thereafter, P.W.2 called Child Help Line (1098) and gave information. The victim girl narrated the sequence, her medical examination and the statement recorded under Section 164(5) Cr.P.C. The victim girl identified all the accused persons.

3.3. P.W.3 Elakiya and P.W.4 Paramasivam, Members of the Child Line Organization, Ariyalur, deposed in line with P.W.1 and P.W.2.

3.4. P.W.5 Thatchayani, grandmother of the victim girl, had two houses, one at Elaiyur Village of the victim girl and another at



CrI.A.No.119 of 2017

Katchiperumal Village. Initially, the victim girl was staying along with Anjalai in Elaiyur Village. P.W.5 informed the victim girl that since she was married, she should not stay with Anjalai. Therefore, the victim girl came to the house of P.W.5 at Katchiperumal Village. P.W.5 further deposed that the victim girl called 1098 and informed about the child marriage, Officers from the Child Help Line came to Katchiperumal Village and took P.W.5 and the victim girl to their Office at Ariyalur.

3.5. P.W.6 Ramalingam, Priest of the Temple, who performed the marriage of the victim girl with A1 in the presence of A2 to A4 and others, not supported the prosecution case.

3.6. P.W.7 Senthamilselvi, wife of the Temple Priest [P.W.6], witness for preparation of Rough Sketch and Observation Mahazar, for the place of marriage namely, the Temple. P.W.7 not supported the case of prosecution, treated hostile.

3.7. P.W.8 Tamilarasan and P.W.9 Kaviyaran, present during child marriage of the victim girl and A1 on 19.08.2016, not supported the



Crl.A.No.119 of 2017

prosecution case, treated hostile.

WEB COPY

3.8. P.W.10 Anbalagan, witness for preparation of Rough Sketch and Observation Mahazar along with P.W.7 admitted his signature (Ex.P.3) alone in the Observation Mahazar. He was also treated hostile.

3.9. P.W.11 Arivalagan identified the house of A1 and A2 and a witness for the Rough Sketch – II and Observation Mahazar – II, where penetrative sexual assault had taken place as per the case of prosecution. The said documents marked as Exs.P.4 and P.5.

3.10. P.W.12 Dr.Elavarasan examined A1. After completion of medical examination, certified A1 was a fit person to indulge in sexual intercourse with another. P.W.12 certified that A1 was a potent man. The Semen Analysis Report (Ex.P.6) and Medical Report (Ex.P.7) marked through P.W.12.

3.11. P.W.13 Dr.Banumathi, medically examined the victim girl on 25.09.2016, recorded the statement of the victim girl about her marriage with a known person, who committed penetrative sexual assault on her on one occasion. P.W.13 found hymen of the victim girl not intact and she did



Crl.A.No.119 of 2017

not notice any other injury either on the private parts of the victim girl or on her body. Uterus was normal in size. She further stated that the victim girl was not pregnant and gave Ex.P.8 Medical Certificate with the above details.

3.12. P.W.14 Selvavinayagam Headmaster of the Government Higher Secondary School, Elaiyur, where the victim girl studied at the time of her marriage with A1, confirmed the victim girl was studying 9th Standard during the Academic year 2016 – 2017, School Certificate with date of birth of the victim girl, marked as Ex.P.9. Further, a certified copy of the School Admission Register of the victim girl compared with Original Register and marked as Ex.P.10. As per the details found in the Admission Register (Ex.P.10), the date of birth of the victim was 04.06.2003. A copy of the Transfer Certificate issued on 05.10.2016 compared with original, marked as Ex.P.11. All documents maintained by the school authority show that the date of birth of the victim girl was 04.06.2003. He admits that he was not Headmaster when P.W.2 admitted in the School and admits that there is correction in the year of birth.



Crl.A.No.119 of 2017

3.13. P.W.15 Selvakumari, Sub-Inspector of Police, All Women Police Station, Jayankondam, received the complaint (Ex.P.1) from P.W.1 on 24.09.2016 at 16.00 hours, registered a case in Crime No.9 of 2016, vide First Information Report (Ex.P.12). She enquired the victim girl and P.W.1, recorded their statements under Section 161(3) Cr.P.C. After recording the statement of the victim girl, she added the father of the victim girl as A4 in the case, vide Ex.P.14 Addition of Accused Report. Thereafter, P.W.15 handed over the investigation to the Inspector of Police, Andimadam, who was in charge of All Women Police Station, Jayankondam.

3.14. P.W.16 Senthilkumar, Inspector of Police, who investigated the case, examined the witnesses, recorded their statements, visited the place of occurrence, prepared Rough Sketch and Observation Mahazar. P.W.16 arrested A1 and A2 on 24.09.2016 at 19.00 hours. Thereafter, he handed over the case file to P.W.17 for further investigation.

3.15. P.W.17 Velusamy, Inspector of Police, took up further investigation of the case, visited the places of occurrence, prepared another set of Rough Sketch and Observation Mahazar, inquired the witnesses and recorded their statements. P.W.17 took steps for recording the statement of



CrI.A.No.119 of 2017

the victim girl by the learned Judicial Magistrate under Section 164(5)

Cr.P.C. P.W.17 enquired the Doctors, recorded their statements and collected documents. On 14.10.2016, P.W.17 inquired the Headmaster of the School and recorded his statements, collected School Certificate for proving the age of the victim girl. After completion of investigation, he filed final report against the appellants/accused for the offences as stated above.

3.16. Thereafter, the learned Sessions Judge, Fast Track Mahila Court, Ariyalur, took the case on file in Spl.S.C.No.21 of 2016 issued summons to the appellants/accused and on their appearance, framed charges, proceeded with the trial, examined P.W.1 to P.W.17, marked Exs.P.1 to Ex.P.15. No witness or documents produced on the side of the accused.

3.17. The appellants/accused were questioned under Section 313[1][b] Cr.P.C., with regard to the incriminating circumstances, against them from the evidences, the accused denied the same as false. The appellants/accused did not file any document or let in any oral evidence.

3.18. The Trial Court, on consideration and appreciation of oral and



Crl.A.No.119 of 2017

documentary evidences, convicted and sentenced the appellants/accused as stated above and hence, this appeal.

4. The learned counsel for the appellants submitted that the evidence of the prosecution witnesses are interested witnesses, which does not inspire confidence and therefore, the Trial Court ought not to have relied on their evidence to convict the appellants. There are several contradictions in the evidence of prosecution witnesses, which are not corroborated and hence, the prosecution failed to prove the case against the appellants beyond reasonable doubt.

4.1. The learned counsel further submitted that there is an inordinate delay of one month in lodging the complaint and there is no explanation given for the delay in lodging the complaint. He further submitted that there is no proof of marriage allegedly took place at the Temple. P.W.6 to P.W.10, Priest of the Temple, his wife and other witnesses projected to prove that they attended the marriage, all declared hostile. He further submitted that Mangalsutra not produced. The prosecution not proved foundational facts of the case. Further, there is no conclusive proof for the



Crl.A.No.119 of 2017

marriage between the victim girl and A1.

WEB COPY

4.2. The learned counsel further submitted that P.W.16 categorically admitted that he has not taken steps for medical examination of the victim girl (P.W.2) to assess her age. From the evidence of P.W.14 the Headmaster of the School, there is correction in the School Register. Therefore, there is no conclusive proof for the age of the victim girl. Further, Exs.P.10 and P.11 are not the conclusive proof for the age of the victim girl in the absence of birth certificate or birth extract of the victim girl. Therefore, the conviction under the POCSO Act as well as the Prohibition of Child Marriage Act does not get attracted in this case.

4.3. The learned counsel further submitted that P.W.13 Doctor opined that even in the absence of sexual intercourse, the hymen can be torn due to development of the age of the person and other activities and there is no external or internal injuries found in the body of the victim girl, which gains significance, since the prosecution case is that, it was a forceful penetrative sexual assault, further, the recording in Ex.P.8 shows that there is no



CrI.A.No.119 of 2017

evidence of recent injuries. Hence, it cannot be conclusively said that there was penetrative sexual assault.

4.4. The learned counsel for the appellants also submitted that the statements under Sections 161 and 164 Cr.P.C. and the deposition of the victim girl are contrary to each other and not corroborated. In this case, 164 Cr.P.C. statement of victim not produced. Therefore, false case foisted against the appellants, which was further developed at the instigation of Child Help Line and the same is not acceptable in evidence. The conviction imposed on the appellants solely based on the deposition of the victim girl (P.W.2) is unsustainable in law and therefore, the same is liable to be set aside.

5.The learned Government Advocate (Criminal side) appearing for the prosecution submitted that time and again, the Courts have held that if the evidence of the victim girl is cogent and clear and the testimony is not found to be tainted, the conviction is proper on the basis of such evidence alone. He further submitted that in this case, the evidence of the victim girl (P.W.2) is cogent and clear and she stood by her version in the cross-



Crl.A.No.119 of 2017

examination.

WEB COPY

5.1. He further submitted that the prosecution has proved the age of the victim girl to be below 18 years through the evidence of the Headmaster (P.W.14) and Exs.P.9 to P.11 and therefore, the victim girl was a child at the time of occurrence as per definition of Section 2(d) of the POCSO Act. Though the witnesses for marriage of the victim girl turned hostile, the evidence of the victim girl proves her marriage with A1. He further submitted that from the evidence of the victim girl, the prosecution proved the penetrative sexual assault by A1 on the victim girl. Further, the evidence of P.W.13 Dr.Banumathi confirms the version of the victim girl regarding the penetrative sexual assault. The oral testimony of the victim girl supports the charge under Section 323 I.P.C. against A1. He further submitted that by marrying a child below the age of 18 years, A1, who is aged about 36 years, had committed an offence punishable under Section 9 of the Prohibition of Child Marriage Act, 2006 also.

5.2. The learned Government Advocate (Criminal side) also submitted that by assisting and arranging the performance of the marriage of the minor girl with A1, all other accused have committed an offence under



Crl.A.No.119 of 2017

Section 10 of the Prohibition of Child Marriage Act. Further, abetted A1 in commission of penetrative sexual assault and therefore, A2 to A4 have rendered themselves liable to be punished under Section 4 read with Section 17 of the POCSO Act. The prosecution has proved all the charges against all the accused beyond reasonable doubt and therefore, he prayed for dismissal of the Criminal Appeal.

6.This Court has given its anxious consideration to the submissions made on behalf of the counsels and perused the evidence and other materials placed on record.

7.While pending this appeal, the sentence of the appellants 2 to 4 were suspended by this Court. Now, the victim girl attained majority and filed an affidavit dated 18.04.2022 before this Court to the effect that she decided to continue her studies and also to live with the first appellant/A1 and there may not be any difficulty to continue the matrimonial life with him. Relevant portion of the said affidavit reads as under:-

"1. I am the victim girl of the Crime No.9 of 2016 before the Respondent Police registered under Section 9 of the Prohibition of Child Marriage Act, Section 4 of the POCSO Act and section 323 of IPC. The above case was registered on the complaint of PW1 who is an



WEB COPY



Crl.A.No.119 of 2017

organiser of Child Helpline when I was in the house of my grandmother.

2. I submit that in order to do a favour and secure my future my parents/Appellants 3 & 4 herein made an arrangement for my marriage with the 1st appellant in the above Criminal Appeal. Accordingly, a marriage was solemnized on 19-08-2016 and I lived for a period of 1 month in the matrimonial house. There was a misunderstanding between me and the 1st appellant herein. Therefore, I came to my grandmother's house and lived therein. At that time, by the intervention of the neighbour, a complaint was instituted with the respondent police as I was aged about 14 years at the time of marriage. Accordingly, a case was registered against the appellants herein who are my husband, my mother-in-law, my stepmother and my father respectively.

3. I further submit that subsequently on completion of trial, the appellants were convicted in Spl.S.C.No.21 of 2016 on the file of Fast Track Mahila Court, Ariyalur, by a judgement dated 03-01-2017. I submit that subsequent to the case, I have decided to continue my studies. Accordingly, with the assistance of my parents, I am studying B.B.A. at Karaikudi and doing well. As the marriage which took place on 19-08-2016 though was not valid at that time, but now on attainment of majority, the said marriage has become valid and I have decided to live with the first appellant/Krishnamurthy who is also my relative even prior to marriage. As of now, there may not be any difficulty to continue the matrimonial life with the first appellant.

4. I submit that in view of this development, the



judgement of conviction which stands against the appellants may be considered prospectively by acquitting them for the betterment of both the parties and more particularly, to secure my future. Otherwise, I will be put to great prejudice at a very young age. Hence, this affidavit may be taken into consideration for my interest and welfare.

For the foregoing circumstances, I pray that this Hon'ble Court may be pleased to accept this Affidavit and pass suitable orders in the Crl.A.No.119 of 2017 by acquitting the appellants and thus render justice."

8. On previous occasion, this Court interacted with the victim girl (P.W.2) to ascertain about the affidavit filed, at that time, P.W.2 informed that she is studying B.B.A. final year, determined to continue further studies in law and practice as an Advocate. She confirmed that there was no penetrative sexual assault made by the first appellant/A1. It was made then only to get rid of her problems and difficulty faced by her, she was denied love and affection or care from her father or from anyone. She had a burning desire to study. She got shattered when she was forced to discontinue her education due to the marriage. She aspires to continue her studies, which would alleviate her to get away from the precarious situation. In view of the same, the learned Additional Public Prosecutor was directed to ensure the presence of the victim girl and the Investigating Officer along



Crl.A.No.119 of 2017

with Case Diary in Crime No.9 of 2016 on 10.03.2023 and requested Mrs.B.S.Ajeetha to do *pro bono* work to have interaction with the victim girl on 17.03.2023 in the Chambers and accordingly, listed the matter on 17.03.2023.

9.As per the earlier direction of this Court, dated 03.03.2023, the victim girl as well as the Investigating Officer appeared before this Court and Mrs.B.S.Ajeetha, learned counsel, interacted with the victim girl for a long time. Thereafter, Mrs.B.S.Ajeetha, informed that the victim girl determined to continue her further studies in Law and practice as an Advocate, which will give protection and pride for women. She further informed that the present arrangement of providing education is only upto the degree level and she was doing well and Mrs.B.S.Ajeetha, learned counsel, undertook to find out the helping hands in fulfilling the victim girl's needs and provide the details. Accordingly, an undertaking letter dated 03.04.2023, from Dr.P.V.Venkatraman, Managing Trustee of P.V.Bakthavatchalam Trust [PVB Trust], has been received stating that the P.V.B. Trust has resolved to support the victim girl to pursue and complete Law degree in any one of the Government Law Colleges in Tamil Nadu or



CrI.A.No.119 of 2017

in any other Law College, that is recognized by the Bar Council of India. He undertakes that the PVB Trust by itself or through resources mobilized from other Philanthropic sources, will take care of the annual tuition fees and expenses towards books and stationery apart from her living costs and incidental expenses. The victim girl's name will be enrolled in the Chief Minister's Health Insurance Scheme for the purpose of medical support and the support for her boarding and lodging will also be overseen by the PVB Trust by ensuring the same through the provisions made by the Government and other sources.

10.The affidavit filed by the victim girl, dated 18.04.2022, shows that she is desirous to continue her future studies in law and practice as an Advocate and she has no objection to set aside the conviction imposed on the appellants.

11.In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India in the case of **Ramgopal and others** vs. **The State of Madhya Pradesh** reported in **2021 SCC OnLine SC 834** and



the relevant paragraphs of the said decision are extracted hereunder:-

WEB COPY

"18. It is now a well crystallized axiom that the plenary jurisdiction of this Court to impart complete justice under Article 142 cannot ipso facto be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to Section 482 Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under Article 142 of the Constitution embraces this Court with scopious powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the overarching objective of sentencing in the criminal justice system, which is grounded on the sublime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.

19. We thus sumup and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences ?compoundable? within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant



WEB COPY



Crl.A.No.119 of 2017

considerations.

20. Having appraised the aforestated parameters and weighing upon the peculiar facts and circumstances of the two appeals before us, we are inclined to invoke powers under Article 142 and quash the criminal proceedings and consequently set aside the conviction in both the appeals. We say so for the reasons that: Firstly, the occurrence(s) involved in these appeals can be categorized as purely personal or having overtones of criminal proceedings of private nature; Secondly, the nature of injuries incurred, for which the Appellants have been convicted, do not appear to exhibit their mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest; Thirdly, given the nature of the offence and injuries, it is immaterial that the trial against the Appellants had been concluded or their appeal(s) against conviction stand dismissed; Fourthly, the parties on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute(s); Fifthly, the occurrence(s) in both the cases took place way back in the years 2000 and 1995, respectively. There is nothing on record to evince that either before or after the purported compromise, any untoward incident transpired between the parties; Sixthly, since the Appellants and the complainant(s) are residents of the same village(s) and/or work in close vicinity, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any ill-will and have no vengeance against each other; and Seventhly, the cause of administration of criminal justice system would remain un-effected on acceptance of the amicable settlement between the parties and/or



Crl.A.No.119 of 2017

resultant acquittal of the Appellants; more so looking at their present age."

WEB COPY

12. On the facts and circumstances of the case and the assertion and affirmation of the victim girl (P.W.2), it is seen that she was not subjected to penetrative sexual assault, such allegation was made only to get rid of her precarious situation she was facing and to continue her education, fight for similarly placed children and to empower women. This conviction could be seen during personal interaction as well as from the assessment of the learned *Amicus Curiae*, facilitator Tmt.B.S.Ajeetha, who took efforts, pain with patience and passion and could understand the victim, a child in need for care and protection, infused confidence to the victim and undertakes to take care of the victim by all means.

13. Thus, from the above facts and circumstances and taking cue from the judgment supra, this Court set aside the judgment of conviction imposed on the appellants in Spl.S.C.No.21 of 2016, dated 03.01.2017, by the learned Sessions Judge, Fast Track Mahila Court, Ariyalur. The appellants/accused are acquitted of all charges and set at liberty. Fine



Crl.A.No.119 of 2017

amount, if any paid, shall be refunded to the appellants forthwith. Bail bonds, if any executed, shall stand cancelled. The first appellant/A1 is directed to be released forthwith, unless his custody is required in connection with any other case. Accordingly, this Criminal Appeal stands allowed.

14.Before parting with this case, this Court wishes to place on record its appreciation for the assistance rendered by the learned counsel Mrs.B.S.Ajeetha, and also appreciate Dr.P.V.Venkatraman, Managing Trustee of PVB Trust, for extending his support to the victim girl to pursue and complete the Law degree.

Index : Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
smn2/vv2

30.08.2023

Copy to :- (1) The Superintendent of Central Prison,
Trichy.

(2) Dr.P.V.Venkatraman,
Managing Trustee,
P.V.Bakthavatchalam Trust,
No.33, First Main Road,
Lake Area,
Nungambakkam,
Chennai – 600 034.



WEB COPY



Crl.A.No.119 of 2017

(3) Mrs.B.S.Ajeetha,
No.336, 3rd Floor, Thambu Street,
George Town, Chennai-600 001.



Crl.A.No.119 of 2017

To
WEB COPY

- 1.The Sessions Judge,
Fast Track Mahila Court,
Ariyalur.
- 2.The Inspector of Police,
All Women Police Station,
Jayankondam,
Ariyalur District.
- 3.The Public Prosecutor,
High Court,
Chennai.



WEB COPY



Crl.A.No.119 of 2017

M.NIRMAL KUMAR, J.

smn2/vv2

Pre-delivery Judgment made in

Crl.A.No.119 of 2017

30.08.2023