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Crl.A.No.71 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

Crl.A.No.71 of 2018
and
Crl.M.P.No.18979 of 2019

Ravi @ Mattu Ravi

...Appellant

vs.

State Rep. by
The Inspector of Police,
V-1, Villivakkam Police Station,
Chennai.
Crime No.766 of 2014.

...Respondent

PRAYER: Criminal Appeal filed under Section 374(2) Criminal Procedure Code, 1973, to set aside the judgment and orders dated 20.01.2017 in S.C.No.56 of 2015 passed by the learned Special Judge for cases under POCSO Act 2012/Mahila Court, Chennai.

For Appellant : Mr.Murali Vinodh
For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor

JUDGMENT

The appellant stood charged for the offences punishable under Section 448 IPC and Section 10 of the Protection of Children from Sexual Offences Act, 2012 (in short POCSO Act) in S.C.No.56 of 2015.



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2. The learned Trial Court Judge, after full trial, convicted and sentenced the appellant, vide her judgment dated 20.01.2017, as detailed hereunder.

<i>Conviction</i>	<i>Sentence</i>
Section 448 IPC	Rigorous Imprisonment for six months.
Section 10 of Protection of Children from Sexual Offences Act, 2012	Rigorous Imprisonment for seven years and a fine of Rs.10,000/-, in default, to undergo Rigorous Imprisonment for six months.
The period of sentence already undergone shall be set off under Section 428 Cr.P.C. The sentences shall run concurrently.	

3. The case of the prosecution in a nutshell is as follows:

3.1. The victim child was studying IV Standard and was residing with her mother Nagammal (P.W.1) at Door No.24C, 2nd Street, Sathya Nagar, Villivakkam, Chennai.

3.2. On 20.05.2014 at about 10.00 a.m., when Nagammal (P.W.1) left her child in her house alone, the appellant trespassed into her house and forced himself upon the child. When P.W.1 returned home, the victim child (P.W.2) informed the incident to her and thereafter, P.W.1



with the help of her neighbours lodged a complaint (Ex.P1) with Thiru.Senthilkumar (P.W.7), the then Sub Inspector of Police, Villivakkam Police Station.

3.3. Thiru.Senthilkumar (P.W.7), received the complaint (Ex.P1) from P.W.1 and registered FIR in Crime No.766/2014 against the appellant for the offences punishable under Section 448 IPC and Section 10 of POCSO Act. He then placed the records before Thiru.Kalyankumar (P.W.8), the then Inspector of Police, Villivakkam Police Station.

3.4 P.W.8 took up investigation in Crime No.766/2014, went to the scene of occurrence and prepared an observation mahazar (Ex.P4) rough sketch (Ex.P7) in the presence of witnesses Divya (not examined) and Kalaivani (P.W.5).

3.5 The victim girl was produced before Thiru.Sivasubramaniam (P.W.6), the then XIII Metropolitan Magistrate, Chennai for recording her statement under Section 164 Cr.P.C. P.W.6 after observing necessary legal formalities recorded the statement of the victim child under Section 164 Cr.P.C.



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3.6 P.W.8 after completing investigation, laid a final report before the Mahila Court, Chennai in S.C.No.56/2015 against the appellant for the offences punishable under Section 448 IPC and Section 10 of POCSO Act.

3.7 The prosecution examined 18 witnesses and marked 6 documents.

3.8 The appellant, when questioned under Section 313 Cr.P.C., with regard to the incriminating circumstances appearing in evidence against him, denied of having committed any offence. However, he did not examine any witness on his side.

3.9 The learned Trial Court Judge, after analysing the oral and documentary evidence on record, convicted and sentenced the appellant as detailed in paragraph No.2 vide her Judgment and orders dated 20.01.2017.

3.10 Aggrieved over the same, the appellant has preferred the



present appeal.

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4. Heard Mr.Murali Vinodh, learned counsel appearing for the appellant and Mr.S.Rajakumar, learned Additional Public Prosecutor appearing for the respondent.

5. In the instant case, the victim child was examined as P.W.2 and she had narrated the sequence of events cogently. P.W.1 (mother of the victim) corroborated the versioning of P.W.2 in all material particulars. There is no contradiction at all. In fact, P.W.2 was studying IV standard and was aged about 11 years and nothing useful was suggested to her during the course of cross examination to discredit her evidence. Thus, the prosecution had established the foundational facts of the case against the appellant and the accused now has to rebut the presumption under Section 29 of POCSO Act which reads as under:

“29. Presumption as to certain offences:-

Where a person is prosecuted for committing or abetting or attempting to commit any offence under Sections 3, 5, 7 and Section 9 of this Act, the Special Court shall presume, that such person has committed or abetted or attempted to commit the offence, as the case may be unless the contrary is proved.”



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6. The appellant, has not adduced any evidence to rebut the presumption and all his answers to 313 Cr.P.C., were of simple denial. There is nothing on record to conclude that the victim child was tutored as she has understood the testimony of cross examination.

7. The Trial Court had in fact by a well reasoned order convicted the appellant for the offences punishable under Section 448 IPC and Section 10 of POCSO Act and had shown leniency while sentencing him. Therefore I did not see any reason to interfere with the conviction and sentenced passed by the Trial Court Judge.

8. In the result,

- i. The Criminal Appeal is dismissed.
- ii. The judgment and orders dated 20.01.2017 passed by the learned Special Judge for cases under POCSO Act 2012/Mahila Court, Chennai in S.C.No.56 of 2015 is hereby confirmed.
- iii. The appellant is directed to surrender before the Trial Court viz., the Special Judge for cases under POCSO Act 2012/Mahila Court, Chennai, within fifteen days from the date of receipt of a copy of



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this order / uploading of the order, failing which, the Trial Court shall take necessary steps to secure the presence of the accused to serve the remaining period of sentence.

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Index : Yes/No

Internet: Yes/No

Neutral Citation Case: Yes/No

To

1. The Special Judge for cases under POCSO Act 2012/
Mahila Court, Chennai.
2. The Public Prosecutor,
High Court, Madras.
3. The Section Officer,
Criminal Section, High Court,
Madras.



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R.HEMALATHA, J.,

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