



Crl.O.P.No.20036 of 2024 in
Crl.A.SR.No.32919 of 2024

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M.NIRMAL KUMAR, J.

The State has preferred the appeal aggrieved against the judgment rendered in Spl.S.C.No.127 of 2019 acquitting the respondent from the case.

2. The contention of the learned Government Advocate (Crl.Side) is that on the complaint given by the victim's mother, a case in Crime No.192 of 2018 was registered under Sections 363, 366 of IPC., Section 9 of Prohibition of Child Marriage Act, 2006, Section 5(I)(n) r/w Section 6 of POCSO Act, 2012.

3. The gist of the case is that the respondent is the maternal uncle of the victim girl. The respondent had married the victim girl's sister earlier and due to the wedlock, they have a child. The respondent's wife died in an accident. The victim girl had gone to her grandmother's house and was staying there during the vacation. At that time, the respondent uncle informing that he will take her to the mother's place, took her in a car and went to Bangalore and committed penetrative sexual assault. Since the victim girl who is aged about 13, had been taken by the respondent, the victim's father became ill due to the shock, he was hospitalised. The victim's brother informed the victim about the father's health condition and thereafter, she came to the native. At that time, she informed about the happening during the period of absence.



4. The victim's mother lodged a complaint and thereafter, the victim was produced before the doctor for medical examination and the same proved that the victim was subjected to penetrative sexual assault. She was produced before the Magistrate and 164 statement recorded. The investigation taken up and the accused was arrested and statement of witness recorded. Finally, charge sheet filed. During the trial, P.W.1 to P.W.10 were examined and Exs.P1 to P17 were marked. The accused examined himself as D.W.1.

5. The learned Government Advocate (CrI.Side) for the petitioner submitted that the respondent is the maternal uncle and aged person. The victim is 13 years old which was confirmed by P.W.3 Headmaster of the School where the victim studied. The victim's father died due to the shock that the victim was kidnapped and taken away by the respondent. The victim's mother passed away during the period of investigation. Hence, she could not be examined. P.W.2 brother of the victim and P.W.6 brother-in-law of the victim confirmed that the respondent kidnapped the victim girl and taken her to Bangalore and committed penetrative sexual assault. The medical evidence is in conformity to the case of the prosecution. The only ground on which the Trial Court acquitted the respondent is that there is a contradiction in 164 statement and evidence deposed during the trial. This contradiction is only to the limited extent of tying of Thali in the temple at Tharamangalam. With regard to the other aspects of victim forcibly taken away and subjected to penetrative sexual assault have been confirmed.

6. Finding reason and force in the petitioner's submission, this Court is



inclined to grant leave. Accordingly, leave is granted.

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7. The Registry is directed to number the appeal and post for admission, if it is otherwise in order.

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