



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date: 04.07.2024

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HON'BLE MR.JUSTICE K.RAJASEKAR

CrI.A.(MD) No.228 of 2020

Selvaraj

Petitioner

vs.

State, rep. by its
The Deputy Superintendent of Police,
All Women Police Station,
Paramakudi,
Ramanathapuram District.
(Crime No.11 of 2014)

Respondents

Criminal Appeal filed under Section 374(2) Cr.P.C. to call for records pertaining to the Judgment dated 31.07.2019 rendered by the Fast Track Mahila Court, Ramanathapuram in Spl.S.C.No.1 of 2014.

For Appellant : Mr.G.Karuppasamy Pandiyan

For Respondent : Mr.A.Thiruvadikumar,
Additional Public Prosecutor

ORDER

A.D.JAGADISH CHANDIRA, J.

Challenging the judgment of conviction and sentence rendered
by the Fast Track Mahila Court, Ramanathapuram in Spl.S.C.No.1 of



2014, the sole accused has come up with the present Criminal Appeal.

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2. The appellant stands convicted and sentenced as under:-

<i>Legal provision</i>	<i>Sentence imposed</i>
Section 4 of POCSO Act, 2012	Life imprisonment and a fine of Rs.3000/-, in default, to undergo three months simple imprisonment.
Section 506 IPC	One year Rigorous imprisonment

3. The case of the prosecution elicited from the evidence of the prosecution witnesses is as under:-

i) The de facto complainant/victim girl (PW1), who is claimed to be a minor girl, aged about 13 years and residing at Mudugulathur, having been frustrated on the criticism made by her father for spending much time on television rather on studies, had run away from her home on 30.6.2014 at about 9.30 pm, by getting a town bus and was sitting idle at Paramakudi Bus Stand.

ii) By that time, she was enquired by an unknown person, who had, subsequently, took her to a nearby dark lane and committed sexual assault on her and on her raising alarm, he released her and threatened with dire consequences if she raises alarm and thereupon, she had come out of that lane, where, she was enquired by her uncle,



PW2.

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iii) The police personnel, viz., PW8-Thiru.Muthumanickam, Special Sub Inspector, Paramakudi Town Police Station, PW9-Thiru.Jothibas, Grade-II Constable, Paramakudi Town Police Station and PW20-Inspector of Police, All Women Police Station, Paramakudi who, were on their patrol rounds, when they approached near the scene of occurrence at about 3.30 am on 1.7.2004, having suspected the presence of all the three viz., the de facto complainant (PW1), the uncle of PW1 viz, PW2-Sonaimuthu and the person alleged to have committed sexual assault on PW1, enquired them and since PW1 had reported that she was subjected to sexual harassment, the police took all the three to the All Women Police Station.

iv) After a preliminary enquiry, a complaint, Ex.P1 was reduced into writing on the oral information provided by PW1, the de facto complainant and the same was registered as FIR, Ex.P13 in Crime No. 11/2014 against the appellant/accused for the offences punishable under Sections 3 and 4 of POCSO Act and Section 376 IPC by the Inspector of Police, Tmt.S.M.Mallika, PW20.

v) Having inferred from the statement of the victim girl that she was subjected to sexual assault, arrested the appellant/accused in the



Police Station itself at about 6.30 pm and remanded for judicial custody. PW20 had summoned the parents of the victim girl through their mobile phone and recorded their statements. She went to the scene of occurrence alongwith the victim girl at about 8.00 am and having observed the scene of occurrence in the presence of the witnesses Bala and Suresh Kannan-PW7, prepared the observation mahazar, Ex.P14.

vi) Thereafter, PW20 had returned to the Police Station and at about 10.00 am, recovered the dress wore by the victim girl and the accused under mahazar, Ex.P15 and Form 95, Ex.P16 in the presence of witnesses PW4-Ammasi and PW6-Maayan and enquired those witnesses and recorded their statements.

vii) Since further enquiry of the parents of the victim girl revealed that they belong to Scheduled Caste, on 3.7.2014, PW20 had altered the offence into one under Section 3 and 4 of POCSO Act and Section 376 IPC read with Section 3(2)(v) of SC/ST Act, 1989 and Section 3(1)(w)(i) of SC/ST (POA) Amendment Ordinance 2014 and sent the alteration report, Ex.P17 to the court and on the directions of the Superintendent of Police, PW20 had submitted the case to the Deputy Superintendent of Police for further investigation of the case.



viii) The Deputy Superintendent of Police, Thiru.Vinoth Santharam, PW21, who took up the case for further investigation on the basis of proceedings, Ex.P18 passed by the Superintendent of Police, once again enquired the victim girl (PW1), her uncle Sonaimuthu, PW2, mother of the victim girl viz., Murugammal, PW3 and father of the victim girl viz., Karuppiah, PW5. Then, PW21 had enquired PW8, Thiru.Muthumanickam, Special Sub Inspector and PW9, Thiru.Jothibas, Police Constable, who were on patrol duty on the date of occurrence, and recorded their statements. He also enquired, PW10, Thiru.Paulsamy, Head Constable and PW11, Thiru.Needhi, Grade I Constable, who took the accused for medical examination and recorded their statements. He also enquired PW12, Tmt.Murugeswari, Grade I Constable, who produced the victim girl and her mother before the Judicial Magistrate and recorded her statement. PW21 had enquired PW13, Tmt.Shanmugapriya, Grade I Constable, through whom, the dress wore by the victim girl and the accused were sent to the Forensic Sciences Laboratory and recorded her statement. He also enquired Thiru.Raveendranath, Tahsildar, Mudugalathur, who had issued community certificate to the victim girl and recorded his statement and enquired PW15, Tmt.Gangadevi, Tahsildar, Sivagangai,



who had issued community certificate to the accused and record her statement. PW21 had enquired PW14, Dr.Rajkumar, Doctor, Government Hospital, Ramanathapuram, who had issued age certificate to the victim girl and the accused and recorded his statement. He also enquired PW17, Dr.Vijayendran, who issued the Forensic Science Report on the dress, sputum, blood and sperm sent for analysis and recorded his statement. Having enquired PW16, Dr.Sheik Abdulla, of Government Hospital, Ramanathapuram who had examined the accused, PW20 had recorded his statement. He also enquired Dr.Rajavasanthakumari, Government Hospital, Ramanathapuram, who had examined the victim girl and recorded her statement. PW18, Tmt.Arokia Mary, Headmistress, who had issued the age certificate to the victim girl was enquired by PW21 and her statement was recorded. The Judicial Magistrate, Mudugalathur viz., Thiru.C.Mohanram, who had recorded the 164 statements of the victim girl and her mother under Ex.P19 and P20 respectively, was enquired by PW21 and his statement was recorded. Ultimately, PW21, having enquired the Inspector of Police, Mallika, PW20 and recorded her statement and after getting legal opinion from the Government Pleader, filed the final report.



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4. The case was taken on file in Special Case No. 6 of 2010 by the Fast Track Mahila Court, Ramanathapuram. On summoning, the Appellant/accused appeared. Copies of relevant papers were furnished to the Appellant/accused under Section 207 of Cr.P.C. and charges were framed. The accused had denied the charges and sought for trial. In order to bring home the charges against the accused, the prosecution examined P.Ws.1 to 21 and marked Exs.P1 to P20 and Mos.1 to 4. Neither oral nor any documentary evidence has been adduced on the side of the defence.

5. On completion of the evidence, the appellant/accused was questioned under Section 313 Cr.P.C. as to the incriminating circumstances found in the evidence of prosecution witnesses and the accused had stated that he had been falsely implicated in the case.

6. The Trial Court, on considering the entire materials, found the accused/appellant guilty and imposed punishments, as referred to above, which is under challenge in the present Criminal Appeal.

7. The submissions of the learned counsel for the appellant are



as under:-

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i) The testimony of the victim girl being a significant one in this case, the Trial Court failed to consider her evidence in a proper perspective inasmuch as she speaks about involvement of two persons in the offence whereas the prosecution has not whispered anything about the involvement of the other person in the crime.

ii) Added to such a flaw in the case of the prosecution, no test identification parade was conducted to pin point the involvement of the appellant in the crime, when it is the specific case of the prosecution that the occurrence had taken place in a place of pitch of dark.

iii) The investigation is a perfunctory one vitiating the entire case of the prosecution as no investigation was conducted against the alleged involvement of the other accused in the crime.

iv) There is a clear contradiction between the evidence of PW1 and the case of the prosecution projected by them with regard to the time of occurrence on the basis of Section 161 Statements, however, the Trial Court has failed to consider the same.

v) The Trial Court also failed to consider that the test results did not support the case of the prosecution when the dress materials of the victim girl were subjected to forensic examination.



vi) The Trial Court failed to consider that there is no medical evidence to show that there were any injuries found on the private part of the victim girl to probabalise the prosecution theory and the evidence of PW19, Doctor, who examined the victim girl, had contradicted her own version with regard to the entry in the Accident Register.

vii) The offence alleged against the appellant being one under Section 4 of POCSO Act, penetrative sexual assault is *sine qua non* for proving the offence and it has to be proved with concrete and cogent evidence, however, in the present case, except the *ipsi dixit* testimony of PW1, there is nothing to connect the appellant with the grave crime.

viii) The prosecution has not proved the age of the victim girl as the evidence of PW18, Headmaster of the school and Ex.P11, School Certificate are hit by Section 35 of the Indian Evidence Act.

ix) A serious doubt arises with regard to the genuineness of Ex.P1 complaint as it is the case of the prosecution that the victim girl had given an oral statement, which was reduced into writing, in which, she had put her signature, her mother, PW3 had also affixed her thumb impression and her father, PW5 claims to have put his signature in the complaint, however, there is no such signature of PW5 in the



complaint, Ex.P1.

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x) The doubt with regard to the complaint, Ex.P1 gets strengthened on the fact that there is a delay of about 11 hours in the FIR reaching the court as admitted by the investigating officer, which assumes much significance in the present case.

xi) The evidence of PW19, Doctor is contrary to the case of the prosecution, however, the Trial Court has failed to consider the same.

xii) The Trial Court rendered its verdict based on surmises, conjectures without there being any concrete legal evidence and thereby, it is liable to be set aside and the appellant is entitled to be acquitted by allowing the appeal.

8. Per contra, Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor appearing for the State would submit that the prosecution has proved its case beyond all reasonable doubts with the cogent evidence adduced by the prosecution witnesses. He would submit that despite some minor contradictions have been pointed out by the appellant, which do not have much significance, the evidence adduced by the police personnel, who were on patrol duty on the date of occurrence near the scene of occurrence, viz., PW8, Special Sub



Inspector of Police and PW9, Police Constable would clinchingly prove the prosecution case and thereby, the judgment of conviction rendered by the Trial Court does not warrant any interference and the Criminal Appeal is liable to be dismissed.

9. Heard the learned counsel appearing for the parties and perused the materials available on record.

10. The allegation levelled against the appellant being primarily one under Section 4 of POCSO Act, 2012, while the grave nature of offence alleged cannot be disputed, presumption of guilt would operate against him only after the prosecution has proved the basic facts of the case beyond all reasonable doubts. The key witnesses relied on by the prosecution in the case with regard to commission of offence are the victim girl, PW1 and the police personnel, P.Ws.8 and 9, who were on patrol duty near the scene of occurrence on the relevant date.

11. Firstly, the evidence of P.Ws.8 and 9, who happen to be the witnesses, claimed to have seen both the victim girl and the accused at the scene of occurrence and taken them to the All Women Police



Station, Paramakudi requires analysis.

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12. PW8, the Special Sub Inspector and PW9, Police Constable, in once voice, has spoken to the effect that they were on patrol duty alongwith PW20, Inspector of Police from the night of 30.6.2014 and when they reached near Paramakudi Market in the early morning of **1.7.2014 viz., at about 3.30 am**, they had seen three persons standing there raising suspicion and when enquired, they came to that that one Sonaimuthu son of Alagar was enquiring the victim girl and the accused and on further enquiry, the victim girl had informed them that she was subjected to sexual assault and thereby, all the three were taken to the All Women Police Station and a case was registered against the accused.

13. When the evidence of PW1, the victim girl and PW20, the investigating officer is perused to see whether there is any corroboration of the version of P.Ws.8 and 9, we find many contradictions in their evidence, especially, in the evidence of PW1, the victim girl with regard to the time of occurrence.

14. In the chief examination, PW1 had deposed that she got the town bus from her place at about 9.30 pm on 30.6.2014, however, she



was unable to say about the time when she reached the Paramakudi Bus Stand. Except the above, the victim girl had not spoken about any other time throughout her chief examination. The distance between her place viz., Mudugulathur S.Karaikudi to Paramakudi Bus Stand being about 25 kms, PW1 had admitted in her cross examination that her bus journey was only for half an hour.

15. Further, PW1, in her chief examination had deposed that she was approached by one person at the Paramakudi Bus Stand and when she had apprised him of her situation that she had come out of her home, he had asked about her caste and when she told him that she belongs to Scheduled Caste, he had assured to take care of her by taking her to his home, however, when he took her through a dark lane, she wanted to escape from him and by that time, he had pushed her down and committed sexual assault and threatened her with dire consequences and thereupon, she had come out and by that time, her uncle had enquired her as to where from she comes and at the same time, the police, who came there, took her to the Police Station.

16. The chief examination of PW1 being so, in her cross examination, she had admitted that her statement before the Judicial



Magistrate, Mudugulathur was as under:-

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When she got down from the bus at Paramakudi Bus Stand, two persons had chased her and by that time, another person in white dhoti had come there and after warding them off, had taken her to a lorry cabin and tried to seduce her and when she complained of head ache, he went away assuring to bring some pills after locking her inside the lorry cabin, however, she had escaped from there using the side opening of the lorry cabin and when she was running away, a person took her by closing her mouth to a dark lane and committed sexual assault on her.

17. The further admission of PW1 in her cross examination is that she had given her statement to the police only on the above lines and it was reduced into writing by the police, however, it was not read over to her. Therefore, it is clear that PW1, the victim girl had come out with different versions in the chief examination, cross examination and in the statement given to police and to the Judicial Magistrate.

18. The evidence of PW1 being so, the evidence adduced by PW20, the investigating officer is more contradictory with the version



of P.Ws.1, 8 and 9. Her evidence is confined only with regard to the presence of the accused and the victim girl at the scene of occurrence and she does not even whisper about PW2, Sonaimuthu, uncle of the victim girl, when, especially, it is the specific case of all the three viz., PW1, PW8 and PW9 that the uncle of the victim girl viz., PW2 was already at the spot enquiring both the accused and the victim girl when the police had arrived there. Further, PW20 also admits specifically that she had taken only the accused and the victim girl to the Police Station and she had not taken PW2, the uncle of the victim girl to the police station. In fact, her specific admission is that she had not even enquired PW2.

19. The presence of PW2 in the scene of occurrence having been spoken in affirmative by PWs1, 8 and 9, it has has been spoken in negative by PW20, investigating officer. Whiles0, it is peculiar to note that PW2, the uncle of the victim girl himself has spoken in his evidence that at the relevant point of time, he was at Pudhupattinam and he received a phone call from Paramakudi Police Station informing him that the victim girl was found to be in possession of two/three boys, which information, he had passed on to the parents of



the victim girl and later, he came to know the details and about the allegation levelled against the accused. His evidence is very specific that he does not even know the accused. His admission in the cross examination is that on the relevant date, viz., on 30.6.2014, he was not available in Paramakudi itself and he does not personally know about the case and thereby, it is clear that he is only a hearsay witness.

20. A conjoint reading of the evidence adduced by P.Ws.1, 2, 8, 9 and 20 would raise suspicion about the presence of PW2, uncle of the victim girl in the scene of occurrence. The evidence of PW20, investigating officer corroborates with the version of PW2 that he was not available in the scene of occurrence at the relevant point of time and if it is construed to be the true version, the evidence of P.Ws.8 and 9, the police who were on patrol duty, to the effect that they found PW2, uncle of the victim girl at the scene of occurrence when they reached there is belied. A careful perusal of their evidence would reveal that they, having found three persons standing at the scene of occurrence raising suspicion, enquired them and on such enquiry, they claimed to have identified the third person, apart from



the victim girl and the accused, as Sonaimuthu son of Alagar.

Therefore, the probability of misidentification by PWs.8 and 9 cannot be ignored. However, the evidence of PW1, victim girl is very specific that when she had come out of the clutches of the offender at the scene of occurrence, her uncle had enquired her. Therefore, the evidence of PW1, the victim girl, who has come out with different versions, is surrounded by much suspicion going to the root of the prosecution case.

21. Further, it is relevant to note that no identification parade was conducted in the case, which vitiates the case of the prosecution, when especially, the victim girl, PW1 has come out with different version in her 164 Statement and in the cross examination contradicting her version in 164 Statement and in the chief examination viz., implicating only one person in one version and more number of persons in another version. When there is such clear contradiction of versions of PW1, the victim girl, the prosecution has miserably failed to conduct any identification parade and investigation in a proper manner to pin point the real culprit, rather conducted the investigation in a casual manner which certainly vitiates the case of the



prosecution.

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22. The case of the prosecution being filled with many material contradictions apart from the different versions of the victim girl, the medical evidence, viz., the evidence adduced by PW19, the Doctor, who had examined the victim girl also does not support the case of the prosecution. While he does not speak in his chief examination affirmatively as to whether the victim girl could have been subjected to sexual assault, he admits in the cross examination that he had seen the entry in the Accident Register with regard to the victim girl and found that the victim girl had reported that she was subjected to sexual assault by an unknown person, however, on physically examining her, he did not find any injury on her genital organ. Peculiarly, the extract of the Accident Register, which PW19 claims to have seen, has not been produced by the prosecution raising much suspicion about the case of the prosecution.

23. Further, the evidence adduced by PW17, Thiru.Vijayendran, Forensic Science Officer is to the effect that while he found semen on the undergarment of the accused, he did not find any semen in any dress materials of the victim girl, which, on consideration together with the evidence of PW19, the Doctor, who physically examined the victim



girl and admitted that he did not find any injury on the genital organ of the victim girl, would go to the root of the case of the prosecution that the victim girl was subjected to sexual assault.

24. Thus, as rightly pointed out by the learned counsel for the appellant, except the *ipsi dixit* testimony of PW1, there is nothing to connect the appellant with the offence alleged against him. Of course, in cases of rape/penetrative sexual assault, the sole testimony of the victim alone could be sufficient to prove the prosecution case, but, its prerequisite conditions are that such a testimony should be of sterling quality, without any improvement in it, and there should be an impress of truth and reliability.

25. In *Rai Sandeep v. State (NCT of Delhi)*, (2012) 8 SCC 21, the Apex Court has held as under:-

"22 [Ed.: Para 22 corrected vide Official Corrigendum No. F.3/Ed.B.J./48/2012 dated 18-8-2012.]. In our considered opinion, the "sterling witness" should be of a very high quality and calibre whose version should, therefore, be unassailable. The court considering the version of such witness should be in



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a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as the sequence of it. Such a version should have correlation with each and every one of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should



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consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other such similar tests to be applied, can it be held that such a witness can be called as a "sterling witness" whose version can be accepted by the court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged."



26. In the case on hand, the evidence of PW1, the victim girl herself is with many contradictions and she had come out with different versions at various stages viz., in the police statement, statement before the Judicial Magistrate, in the chief examination before the court without any consistency and she did not withstand the cross examination. Such contradictory versions create a doubt as to whether investigation has been done in a proper manner to find out the truth, when, especially the medical and scientific evidence do not support the case of the prosecution.

27. Such a doubt against the manner of investigation gets strengthened when a serious doubt has been raised by the accused with regard to the genesis of the case by pointing out that PW5, father of the girl claims that himself and his wife, PW3 had affixed their thumb impression in the complaint, however, he does not find his thumb impression in the complaint shown to him in the court. It is more so, when the complaint is said to have been received at 6.00 am and the FIR, having been registered at once, it is seen that the complaint and the FIR had reached the court only at 5.00 pm after an unexplained delay of 11 hours, which creates more doubt in the case



of the prosecution, more particularly in the light of the material contradictions in the evidence of PW1, the victim girl.

28. Further, with regard to the age of the victim girl, the prosecution has relied on the evidence of one Arokiyarnary, PW18, Headmistress of the school where the victim girl is alleged to have studied and Ex.P11, School Certificate issued by her.

29. A certificate issued by the school furnishing the age of the victim based on oral statements of the parents of the victim cannot be construed as a valid document to establish the correct age of the victim girl. In **P. Yuvaprakash v. State**, (2023 SCC OnLine SC 846) it has been held as under:-

"13. It is evident from conjoint reading of the above provisions that wherever the dispute with respect to the age of a person arises in the context of her or him being a victim under the [POCSO Act](#), the courts have to take recourse to the steps indicated in Section 94 of the [JJ Act](#). The three documents in order of which the Juvenile Justice Act requires consideration is that the



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concerned court has to determine the age by considering the following documents:

"(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;

(ii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board".

14. Section 94(2)(iii) of the JJ Act clearly indicates that the date of birth certificate from the school or matriculation or equivalent certificate by the concerned examination board has to be firstly preferred in the absence of which the birth certificate issued by the Corporation or Municipal Authority or Panchayat and it is only thereafter in the absence of these such



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documents the age is to be determined through "an ossification test" or "any other latest medical age determination test" conducted on the orders of the concerned authority, i.e. Committee or Board or Court. In the present case, concededly, only a transfer certificate and not the date of birth certificate or matriculation or equivalent certificate was considered. Ex. C1, i.e., the school transfer certificate showed the date of birth of the victim as 11.07.1997. Significantly, the transfer certificate was produced not by the prosecution but instead by the court summoned witness, i.e., CW-1. The burden is always upon the prosecution to establish what it alleges; therefore, the prosecution could not have been fallen back upon a document which it had never relied upon. Furthermore, DW-3, the concerned Revenue Official (Deputy Tahsildar) had stated on oath that the records for the year 1997 in respect to the births and deaths were missing. Since it did not answer to the description of any class of documents mentioned in Section 94(2)(i)



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as it was a mere transfer certificate, Ex C-1 could not have been relied upon to hold that M was below 18 years at the time of commission of the offence.

18. *Reverting to the facts of this case, the headmaster of M's School, CW-1, was summoned by the court and produced a Transfer Certificate (Ex.C-1). This witness produced a Transfer Certificate Register containing M's name. He deposed that she had studied in the school for one year, i.e., 2009-2010 and that the date of birth was based on the basis of the record sheet given by the school where she studied in the 7th standard. DW-2 TMT Poongothoi, Headmaster of Chinnasoalipalayam Panchayat School, answered the summons served by the court and deposed that 'M' had joined her school with effect from 03.04.2002 and that her date of birth was recorded as 11.07.1997. She admitted that though the date of birth was based on the birth certificate, it would normally be recorded on the basis of horoscope. She conceded to no knowledge about the basis on which the document pertaining to*



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the date of birth was recorded. It is stated earlier on the same issue, i.e., the date of birth, Thiru.Prakasam, DW-3 stated that the birth register pertaining to the year 1997 was not available in the record room of his office."

30. Further, in the case on hand, a perusal of the evidence adduced by PW18 in her cross examination would reveal that though she denies the suggestions that the age of the victim girl has been noted in their records only on the basis of the statements of her parents, she had admitted that the school does not have the birth certificate of the victim girl.

31. To sum up, this court finds that the evidence of the victim girl is filled with material contradictions and she had come out with different versions at various stages and the case prosecution also lacks support of the medical/scientific evidence and this court is of the view that it would not be appropriate to convict the appellant on the basis of the untrustworthy evidence of the victim girl, however, the Trial Court has chosen to convict the appellant without appreciating the flaws in



the case of the prosecution and thereby, it warrants interference by this court.

32. In the result, the Criminal Appeal is allowed. The judgment of conviction and sentence dated 31.07.2019 rendered by the Fast Track Mahila Court, Ramanathapuram in Spl.S.C.No.1 of 2014 is set aside. The appellant/accused is acquitted of all the charges. Bail bond, if any, executed by the appellant, shall stand cancelled. Fine amount, if any, paid by the appellant shall be refunded to him.

(A.D.J.C.,J.) (K.R.S.,J.)
04.07.2024

Index: Yes/No.

Internet: Yes/No.

ssk.

To

1. Sessions Judge,
Fast Track Mahila Court,
Ramanathapuram.
2. The Deputy Superintendent of Police,
All Women Police Station,
Paramakudi, Ramanathapuram District.
3. Public Prosecutor,
High Court, Madurai.



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A.D.JAGADISH CHANDIRA, J.
and
K.RAJASEKAR, J.

ssk.

Crl.A.(MD) No.228 of 2020

04.07.2024