



Crl.A.No.299 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.No.299 of 2023

Ponraman @ Karthick

... Appellant

Vs.

State Rep by
The Inspector of Police,
All Women Police Station,
Cuddalore,
Cuddalore District.
(Cr.No.4/2020)

... Respondent

PRAYER: Criminal Appeal filed under Section 374 (2) of Code of Criminal Procedure to call for the records and Set-aside the conviction and sentence imposed in Spl.S.C.No.18 of 2020 dated 28.10.2022 Sessions Judge Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore.

For Appellant : Mr.K.Gandhi Kumar

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor



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JUDGMENT

This Criminal Appeal has been preferred against the Judgment passed in Spl.S.C.No.18 of 2020 dated 28.10.2022 on the file of the learned Sessions Judge Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore, thereby convicting the appellant for the offence punishable under Section 341 of IPC & 3(b) r/w Section 4 of POCSO Act 2012.

2. The mother of the victim died, therefore, she is living with her maternal aunt. The case of the prosecution is that when the victim was sleeping in her house on 25.10.2019 along with one Manjula, the brother of the said Manjula, committed sexual assault by touching her private part and also inserted his fingers. Further alleged that he also touched her breast. On the complaint, the respondent registered the FIR in Crime No.4 of 2020 and Section 7 & 8 of POCSO Act. After completion of investigation, the respondent filed a final report and the same was taken cognizance by the trial court in Spl.S.C.No.18 of 2020.



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3. In order to prove the above said charges, the prosecution

had examined P.W.1 and marked Ex.P1 to Ex.P12. On the side of the accused, they examined D.W.1 and marked Ex.D1. On perusal of the documentary evidence, the trial court convicted the appellant and sentenced him to undergo Rigorous Imprisonment for a period of seven years and to pay a fine of Rs.2000/- and in default of payment of the fine, the petitioner was sentenced to undergo three months of Simple Imprisonment under Section 3(b), 4 of POCSO Act 2012 and also to pay a fine of Rs.500/- and in default of payment of the same, he was sentenced to undergo one week of simple imprisonment under Section 341 of I.P.C. Hence, the present appeal has been filed.

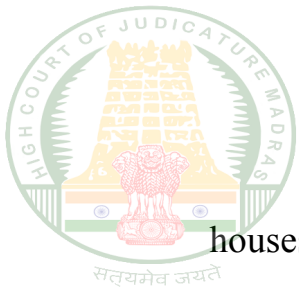
4. The learned Counsel appearing for the appellant would submit that completely a false complaint has been foisted against the appellant due to previous enmity. On the date of alleged occurrence i.e., 25.12.2019 when the victim was sleeping in her house with the sister of the appellant herein, the appellant went into the house and he committed sexual assault on the victim girl. The alleged occurrence was taken place on 25.12.2019 but the complaint was lodged only on 05.02.2020. There was absolutely, no reason for the delay in lodgment of complaint. The



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motive for the complaint is that the said Manjula, the sister of the appellant and the maternal aunt of the victim were working in the same police station. There was a quarrel between them and as such both were issued memo by the Inspector of Police. Due to the said incident, the P.W.2, as an act of vengeance against the sister of the appellant, had lodged a false complaint and without considering the same, the trial court mechanically convicted the appellant. In fact the Inspector of police of the police station in which the P.W.2 and the said Manjula were worked together was examined as D.W.1. He categorically deposed that there was a quarrel between them and as such both were issued memos and that memos were marked as Ex.12 and Ex.D1 dated 28.12.2019. Therefore, the P.W.2 cooked up the case, as if on 25.12.2019, the appellant went into the house of the victim and committed sexual assault just three days before the date of issuance of memo by the D.W.1. On perusal of Ex.P12 and Ex.D1 reveal that on 26.12.2019 at about 9 p.m, there was a quarrel between the P.W.2 and the said Manjula. It was specified by the neighbors. Further, on 28.12.2019 also there was a quarrel between them and in order to maintain the law and order problem they were issued notice to vacate their respective house and handover the vacant possession. Accordingly, they also vacated their respective



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houses. Therefore, it was the motive for the present complaint. Further,

the Doctor who examined the victim girl also did not support the case of the prosecution. According to the prosecution, the appellant touched her breast and also inserted his fingers into the victim's private part. It was supported by the Doctor since there was no injury and there was no injury and there was no possibility of any sexual assault on the victim girl. Therefore, the conviction cannot be sustained and the same is liable to be set aside.

5. Per contra, the learned Additional Public Prosecutor appearing for the respondent/police submitted that when the minor victim girl was sleeping in her house with one Manjula since her maternal aunt went for night duty, the appellant went to the house of the victim girl and committed sexual assault. The victim was examined as P.W.1 and categorically deposed that the appellant had committed sexual assault on her. Though the complaint was lodged belatedly, in the offences like sexual assault, there are so many reasons for the delay and for disclosing the occurrence to the public. Therefore, the delay is no material to the POCSO related sexual offences. Immediately after complaint, the victim was subjected to medical examination. The Doctor



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who examined the victim also deposed that her hymen was not intact.

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Further the victim categorically stated before the Doctor as the appellant had committed sexual assault on her. Therefore, the prosecution clearly proved the charges and the trial court rightly convicted and it does not warrant interference by this Court.

6. Heard the learned counsel appearing for the petitioner as well as learned Additional Public Prosecutor appearing for the respondent and perused the material placed before this Court.

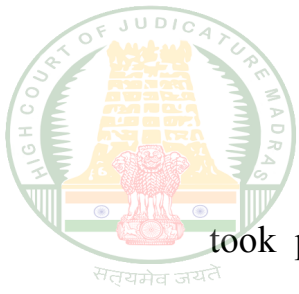
7. The specific case of the prosecution is that when the victim was sleeping in her house on 25.12.2019 along with one Manjula who is none other than the sister of the appellant herein during night hours, the appellant went into the house and he touched her breast and also he inserted his finger on her private part. It was informed immediately to her maternal aunt. Even then, no complaint was lodged. The maternal aunt was examined as P.W.2. She lodged a complaint only on 05.02.2020. Almost after one and half months. There was absolutely no explanation for the delay in lodgment of complaint. Though the delay is not a matter for the sexual offences, considering other circumstances, the delay can be



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considered in lodgment of complaint. After registration of FIR on 05.02.2020, the victim girl was subjected for medical examination and appeared before P.W.4. She examined her and found that there was no injury on her body and also on her private part. She attained puberty three years later and her hymen was not intact. She issued a report and the same was marked as Ex.P5 which also reveals that the hymen was not intact and no findings of sperm.

8. The specific defense of the appellant was that the maternal aunt of the victim and the appellant's sister were working in same police station namely “Muthunagar Police Station”, Cuddalore District. There were a quarrel between them. Therefore, both were issued notice to vacate their respective quarters. The notice was marked as Ex.P2. On perusal of the same, on 26.12.2018 at about 9 a.m i.e., one day after the alleged occurrence, they quarrelled with each other and all the neighbors came to rescue. Once again on 28.12.2018 a 4 p.m both the families quarreled with each other and as such this is a clear law and order problem and also caused nuisance to neighbours and therefore, they were directed to vacate the quarters and accordingly vacated. Therefore, it was the reason to lodge a complaint on 05.02.2020 for the alleged occurrence



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took place on 25.12.2019. Therefore, the prosecution failed to prove charges beyond any doubt. The charges also neither supported the Doctor nor the victim girl. In fact the police quarters was situated just adjacent to the police station. Therefore, there was absolutely no reason for belated complaint. Therefore, all circumstances clearly show that the false complaint has been foisted as against the appellant and he was convicted without any evidence. Hence, the order of conviction and sentence passed by the trial court cannot be sustained.

9. Accordingly, the conviction and sentence imposed by the Sessions Judge Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore in Spl.S.C No.18 of 2020 dated 28.10.2022 for the offence under Section 341 of IPC & 3(b) r/w Section 4 of POCSO Act 2012 is hereby set aside.

10. In the result, the Criminal Appeal is allowed.

10.07.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

Nhs

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To

1. The Sessions Judge Special Court
for Exclusive Trial of Cases under POCSO Act,
Cuddalore.
2. The Inspector of Police,
All Women Police Station,
Cuddalore,
Cuddalore District.
3. The Public Prosecutor,
Madras High Court,
Chennai.



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