



Crl.A.No.84 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2025

CORAM

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

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Sivakumar

... Appellant

Vs

State represented by,
The Inspector of Police,
AWPS Madipakkam,
Crime No.8 of 2020

...Respondent

PRAYER : Criminal Appeal has been filed under Section 374(2) of Criminal Procedure Code, to set aside the Judgment dated 26.12.2022 made in Spl.SC.No.71 of 2020, passed by the Learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act.

For Appellant : No appearance

For Respondent : Mr.S.Raja Kumar

Additional Public Prosecutor

JUDGMENT

This Criminal Appeal has been filed as against the Judgment passed in Spl.SC.No.71 of 2020, dated 26.12.2022 by the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpet, thereby convicting the appellant for the offences punishable under Section 11(i) read with Section 12 of POCSO Act.



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2. The case of the prosecution is that, on 18.05.2020, when the victim, along with her brother, went to open terrace to play, the accused had shown his penis to the victim and explained about how it operates. After seeing the same, the victim girl returned to her house and informed her mother. Hence, the complaint.

3. On receipt of the complaint, the respondent registered FIR in Crime No.8 of 2020 for the offences punishable under Section 11(i) read with Section 12 of POCSO Act. On the side of the prosecution, they had examined PWs.1 to 8 and marked Exs.P1 to P9. On the side of the accused, no one was examined and no document was marked. On perusal of oral and documentary evidence, the Trial Court found the appellant guilty for the offences punishable under Section 11(i) read with Section 12 of POCSO Act and sentenced him to undergo three years rigorous imprisonment and also imposed fine of Rs.5000/-, in default to undergo six months simple imprisonment. Aggrieved by the same, the accused preferred this appeal.

4. There is no representation on behalf of the appellant. Heard the learned Additional Public Prosecutor for the respondent and perused the materials available on record.



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5. A perusal of records revealed that the victim was aged about 10 years at the time of occurrence. She was examined as PW.2. A perusal of the deposition of PW.2 clearly proved that the appellant had committed the offence under Section 11(i) of the POCSO Act. He had shown his penis to the victim girl and explained about how it operates. After seeing the same, the victim girl returned her house and immediately informed to her mother. She was also frightened by the incident and remained unwell for the next three days.

6. The victim's mother was examined as PW.3. A perusal of the deposition of PW.3 also clearly corroborates the evidence of PW.2. The victim's father was examined as PW.1. He also categorically deposed and also corroborated the evidence of PWs.2 and 3.

7. The victim's statement was recorded under Section 164(5) of Cr.P.C. A perusal of the said statement also revealed that the accused had shown his penis to the victim and explained about how it operates. He also explained about the difference between the private part of the female and male.

8. Thus, it is clear that the prosecution had proved its case beyond



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any doubt and the Trial Court had rightly convicted the appellant for the offences punishable under Section 11(i) read with Section 12 of POCSO Act.

Immediately after the occurrence, he was arrested and remanded to judicial custody and he was imprisoned for nearly 30 days. However, considering the age of the appellant, this Court is inclined to modify the sentence imposed on the appellant.

9. In view of the above, while confirming the conviction imposed as against the appellant for the offence under Section 11(i) read with Section 12 of POCSO Act, the sentence imposed on him alone is reduced to the period of incarceration which was already undergone by the appellant.

10. Accordingly, this Criminal Appeal stands partly allowed.

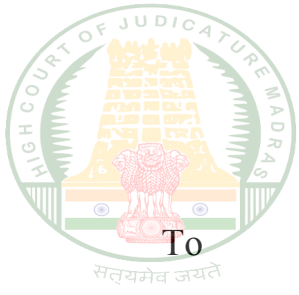
05.06.2025

Speaking order/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

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1. The Sessions Judge, Special Court
for Exclusive Trial of Cases under POCSO Act,
Chengalpet.
2. The Inspector of Police,
AWPS Madipakkam.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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