



CrI.A.No.125 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2025

CORAM:

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

CrI.A.No.125 of 2025

and

CrI.M.P.No.13601 of 2025

Jayaprakash

... Appellant

Vs.

State represented by
Inspector of Police,
Kothagiri Police Station,
The Nilgiris.
(Crime No.31 of 2020)

... Respondent

PRAYER: Criminal Appeal filed under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 praying to set aside the conviction and sentence imposed on the appellant by the Sessions Judge of Magalir Neethimandram, (FTMC), Udhagamandalam, The Nilgiris, in Spl.C.C.No.26 of 2021 by a Judgment dated 10.01.2025 by allowing this appeal.

For Appellant : Mr.K.Balasubramaniam

For Respondent : Mr.S.Raja Kumar,
Additional Public Prosecutor

JUDGMENT

This Criminal Appeal has been preferred as against the Judgment dated 10.01.2025 passed in Spl.C.C.No.26 of 2021 on the file of the Sessions Judge, Magalir Neethimandram (FTMC), Udhagamandalam, The Nilgiris District,



Crl.A.No.125 of 2025

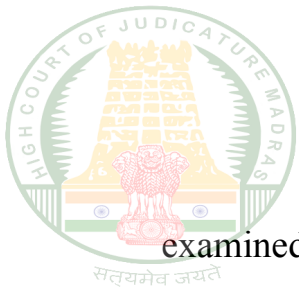
thereby convicted the appellant for the offences punishable under Sections 342,

366A of IPC and Section 7 read with 8 as well as Section 5(l) read with 6 of the Protection of Children from Sexual Offences Act, 2012.

2. The case of the prosecution is that the victim girl was a student at Visvasanthi School, where the appellant was employed as a van driver. It is alleged that, on 21.12.2019, the appellant promised to marry the victim and had committed sexual assault on her. Further, it is alleged that on 29.01.2020, the appellant invited the victim to his house, where he subjected her to repeated sexual assault.

3. Based on the complaint, the respondent Police registered an FIR in Crime No.31 of 2020 initially under “Girl Missing”. Subsequently, the case was altered to the offences under Sections 343, 366A of IPC and 5(1), 6, 7, 8 of the POCSO Act. After completion of the investigation, a final report was filed and the same has been taken cognizance by the Trial Court in Spl.C.C.No.26 of 2021 on the file of the Sessions Judge, Magalir Neethimandram (FTMC), Uthagamandalam, The Nilgiris.

4. On the side of the prosecution, P.W1 to P.W.12 were examined and Exs.P1 to P19 were marked. On the side of the accused, no witness was



Crl.A.No.125 of 2025

examined and no document was marked. On perusal of the oral and documentary evidence, the Trial Court found the appellant guilty of the offence under Section 342 of IPC and sentenced him to undergo one year rigorous imprisonment and to pay a fine of Rs.500/-. Further, he was convicted for the offence under Section 366A of IPC and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.1,000/-. He was also convicted for the offence under Section 7 read with 8 of POCSO Act and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.5,000/-. Additionally, he was convicted for the offence under Section 5(1) read with 6 of POCSO Act and sentenced to undergo twenty years of rigorous imprisonment and to pay a fine of Rs.5,000/-. Aggrieved by the same, the present Criminal Appeal has been filed.

5. The learned counsel appearing for the appellant would submit that there are material contradictions between the statements recorded under Section 161(3) of Cr.P.C and Section 164 of IPC. The victim girl was examined as P.W.1 and deposed three different versions. In the first version, she stated that she was sexually assaulted on two occasions. Subsequently, she deposed that she was sexually assaulted on only one occasion. Ultimately, she deposed that she was not even sexually assaulted by the appellant at all. Thus,



P.W.1 did not support the case of the prosecution. The mother of the victim

was examined as P.W.2. She also turned hostile and did not support the case of the prosecution. After registration of the FIR, the victim girl was subjected to medical examination. The Doctor, who examined the victim girl, deposed that there was no internal and external injuries on the genitalia of the victim. The medical reports were marked as Exs.P7 & P8, which also did not support the case of the prosecution. Therefore, the prosecution has miserably failed to prove the charges beyond reasonable doubt to sustain the conviction of the appellant for any of the offences as alleged.

6. Per contra, the learned Additional Public Prosecutor appearing for the respondent Police submitted that the victim girl was examined as P.W.1. and she categorically deposed that the appellant had committed aggravated penetrative sexual assault on her. Though P.W.2, the mother of the victim girl, turned hostile, she was only a hearsay witness. The victim girl was subjected to a medical examination and the Doctor deposed that the hymen was not intact, which indicated the possibility of sexual assault. The prosecution also duly proved the age of the victim by marking her school certificate, which was produced and admitted in evidence. Therefore, the prosecution has clearly established all the ingredients of the offences charged, and the Trial Court



CrI.A.No.125 of 2025

rightly appreciated the evidence on record and convicted the appellant. Hence,

it does not warrant any interference of this Court.

7. Heard the learned counsel appearing on either side and perused the materials available on record.

8. The victim girl was examined as P.W.1. She deposed that she fell in love with the appellant. While the appellant was working in her school, one day in the month of December 2019, she had a quarrel with her parents and went to her aunt's house in Coimbatore. Thereafter, she returned to her house on 30.12.2019. In the meanwhile, her mother lodged a complaint before the Inspector of Police, Kotagiri Police Station, alleging that the victim girl eloped with the appellant. However, P.W.1 turned hostile during trial. The mother of the victim girl, who was also examined as P.W.2, also turned hostile and did not support the case of the prosecution. Subsequently, the victim girl was subjected to medical examination. She was examined by P.W.10, the Doctor. The Doctor deposed that the victim girl's hymen was not intact, there was no injuries found either on her genitalia or any other part of her body. The Accident Register was marked as Ex.P7 and the Doctor's medical opinion was marked as Ex.P8. Therefore, the medical evidence also did not support the case of the



prosecution.

WEB COPY

9. In fact, the victim girl had deposed that she went to her aunt's house on her own and had not eloped with the appellant herein. The Trial Court, however, convicted the appellant based on the statement recorded under Section 164 of Cr.P.C. and the evidence of the Investigating Officer. The conviction cannot be sustained only on the basis of the statement recorded under Section 164 of Cr.P.C, especially when the victim herself has turned hostile before the Trial Court and when no other witness has supported the case of the prosecution. Therefore, the entire conviction and sentence imposed on the appellant cannot be sustained and are liable to be set aside.

10. In view of the above, the Judgment dated 10.01.2025 passed in Spl.C.C.No.26 of 2021 on the file of the learned Sessions Judge of Magalir Neethimandram (FTMC), Udhagamandalam, The Nilgiris, is hereby set aside. The appellant/accused is acquitted of all charges under Section 342, 366(A) of IPC and Section 7 read with 8 and Section 5(1) read with 6 of Protection of Children from Sexual Offences Act, 2012.

11. The appellant/accused is directed to be set at liberty forthwith,



CrI.A.No.125 of 2025

unless his custody is otherwise required in connection with any other case. The

fine amount, if any paid, shall be refunded to the appellant forthwith. The bail

bond, if any executed, shall stand cancelled.

12. In the result, this Criminal Appeal stands allowed.

Consequently, connected miscellaneous petition is closed.

11.07.2025

Index : Yes/No

Internet : Yes/No

Speaking/Non Speaking order

Lpp

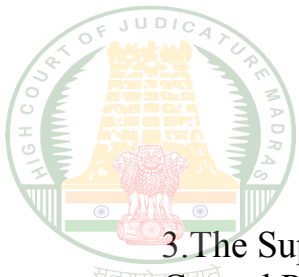
G.K.ILANTHIRAIYAN. J,

Lpp

To

1.The Sessions Judge
Magalir Neethimandram (FTMC),
Udhagamandalam, The Nilgiris

2.The Inspector of Police,
Kothagiri Police Station,
The Nilgiris.



Crl.A.No.125 of 2025

3. The Superintendent,
Central Prison,
Coimbatore.

4. The Public Prosecutor,
High Court, Madras.

Crl.A.No.125 of 2025

11.07.2025