



WEB COPY



Crl.A.No.119 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2025

CORAM :

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

Crl.A.No.119 of 2023

Vignesh

... Appellant

Vs

State Represented by,
The Inspector of Police,
All Women Police Station,
Vaniyambadi,
Vellore District.
Crime No.11 of 2018

... Respondent

Prayer: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, pleaded to set aside the conviction and the sentence imposed upon the appellant by the learned Special Court for Exclusive Trial of Cases under Protection of Children from Sexual Offences Act, 2012, Vellore made in Spl.S.C.No.142 of 2018 by judgment dated 24.03.2021.

For Appellant : Mr.M.R.Thangavel

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



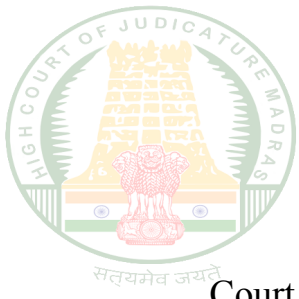
Crl.A.No.119 of 2023

WEB COPY

JUDGMENT

This Criminal Appeal has been preferred as against the judgment dated 24.03.2021 passed in Spl.S.C.No.142 of 2018 on the file of the learned Special Court for Exclusive Trial of Cases under Protection of Children from Sexual Offences Act, 2012, Vellore, thereby convicting the appellant for the offence punishable u/s 5(m), (i) r/w 6 of POCSO Act, 2012 and 366 & 506(i) of IPC.

2. The case of the prosecution is that on 27.08.2018, at about 05.00 P.M., the victim girl went to her maternal uncle's house to play along with other children. At that juncture, the accused had taken her to the first floor of his house and had committed aggravated penetrative sexual assault on her. Immediately, the victim informed about the said occurrence to her mother and she lodged a complaint before the respondent police. On receipt of the said complaint, the respondent registered an FIR in Crime No.11 of 2018 for the offences punishable u/s 354(b) and 506(ii) of IPC and Sections 6 & 8 of Protection of Children from Sexual Offences Act, 2012 (in short 'the POCSO Act'). After completion of investigation, a final report was filed before the Special



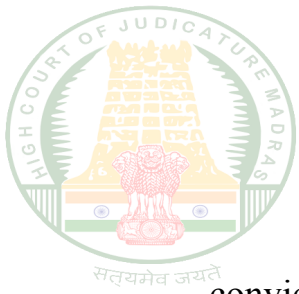
Crl.A.No.119 of 2023

WEB COPY

Court for Exclusive Trial of cases under POCSO Act, 2012, Vellore and the same was taken cognizance in Spl.S.C.No.142 of 2018 for the offence punishable u/s 363, 366, 354(B), 506(ii) of IPC and Section 6 r/w 5(m), 5(i)(2) of POCSO Act, 2012.

3. Before the Trial Court, the prosecution examined seven (7) witnesses as P.W.1 to P.W.7 and marked ten (10) documents as Ex.P.1 to Ex.P.10. On the side of the accused, he examined one witness as D.W.1, but no document was marked.

4. On perusal of the oral and documentary evidence, the Trial Court found the appellant guilty and convicted him for the offence u/s 5(m), (i) r/w 6 of POCSO Act and sentenced him to undergo rigorous imprisonment of 10 years and to pay fine of Rs.5,000/-, in default to payment of fine, to undergo rigorous imprisonment for a further period of 3 months. The appellant was also convicted for the offence u/s 366 of IPC and was sentenced to undergo rigorous imprisonment of 7 years and to pay fine of Rs.1,000/-, in default to payment of fine, to undergo rigorous imprisonment for a further period of one month and further, he was

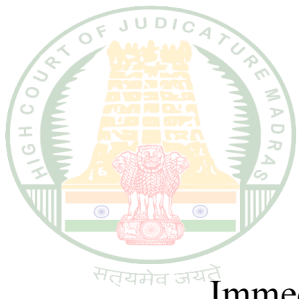


Crl.A.No.119 of 2023

WEB COPY

convicted for the offence u/s 506(i) of IPC and was sentenced to undergo rigorous imprisonment of one year. Aggrieved by the same, the present Criminal Appeal has been filed.

5. The learned counsel for the appellant would submit that no such occurrence happened on the said date and the victim girl was tutored by her mother to depose as if the appellant had committed aggravated penetrative sexual assault on her. The mother of the victim was examined as P.W.1. On the date of alleged occurrence, there was a dispute between the appellant's family and the victim's family in respect of purchase of plot, which is situated near the appellant's house. Therefore, it was also informed to the police personnel of Natrampalli Police Station and the police personnel have come there and advised not to precipitate in the issue. However, no complaint was lodged on the date of the alleged occurrence on 27.08.2018. Only on the next day, i.e., on 27.08.2018, P.W.1 lodged complaint before the respondent police. Therefore, due to previous enmity, a false complaint has been foisted against the appellant. The victim was examined as P.W.3, who categorically deposed that she was tutored by her mother before the police as well as the Trial Court.

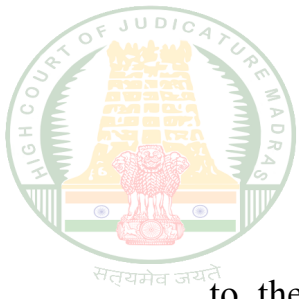


Crl.A.No.119 of 2023

WEB COPY

Immediately, after registration of FIR, victim was subjected for medical examination and P.W.5, who examined the victim, had deposed that there is no injury in the private part of the victim or any part of the body. She found redness on the private part of the victim and she gave a certificate to that effect, which was marked as Ex.P.7. Even according to the said certificate, the victim's hymen was intact and the redness could have happened by her own hands. Therefore, it is clear that P.W.1 lodged a false complaint in order to wreck vengeance as against the appellant. In fact, no children who were alleged to have been playing along with the victim was examined by the prosecution to corroborate the evidence of the victim girl. Therefore, the prosecution has failed to prove any of the charges to convict the appellant. Accordingly, he prays for allowing this appeal.

6. Per contra, learned Additional Public Prosecutor submitted that the victim girl was examined as P.W.3, who categorically deposed that after returning from school, she went to her maternal uncle's house to play along with other children, where the appellant had taken the victim



Crl.A.No.119 of 2023

WEB COPY

to the first floor of his house and had committed aggravated sexual assault on her. Immediately, it was informed to her mother, who was examined as P.W.1 and she also categorically corroborated the evidence of P.W.3. After registration of FIR, the victim was subjected to medical examination and the doctor, who examined the victim was examined as P.W.5, who deposed that she found redness in the private part of the victim. Therefore, the prosecution categorically proved the charges and the Trial Court had rightly convicted the appellant, which does not warrant any interference by this Court. Accordingly, he prays for dismissal of this appeal.

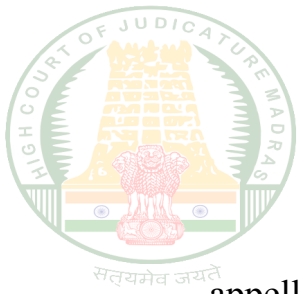
7. Heard the learned counsel appearing for the appellant, the learned Additional Public Prosecutor appearing for the respondent police and perused the materials available on record.

8. Admittedly, on the complaint lodged by the mother of the victim, the respondent police registered an FIR on 28.08.2018 at about 10 hours for the alleged occurrence that took place on 27.08.2018 at about 05.00 P.M. According to the case of the prosecution, when the victim was



Crl.A.No.119 of 2023

playing with other children in the house of her maternal uncle, the appellant had taken her to the first floor of his house and had committed aggravated penetrative assault on her. Immediately, it was informed to her mother/P.W.1. Though P.W.1 deposed that on the date of occurrence itself she went to Natrampalli Police Station to lodge complaint, there she was directed to lodge a complaint before the All Women Police Station, Vaniyambadi. Therefore, P.W.1 lodged the complaint on the next day before the respondent police, but the said occurrence was not informed to any other relative of P.W.1. In her cross-examination, she also deposed that immediately after the occurrence, she went to the house of the appellant and enquired about the occurrence. Therefore, there has been a quarrel between them and immediately, it was informed to the police personnel of the Natrampalli Police Station. In fact, the police personnel have visited the house of the appellant and directed the parties to come to the Police Station if there is any grievance. However, P.W.1 did not go to the police station on that day, but she has lodged the complaint before the respondent only on the next day. In order to corroborate the evidence of P.W.1, the prosecution failed to examine any witness. The victim/P.W.3 had deposed that while she was playing with other children in front of the

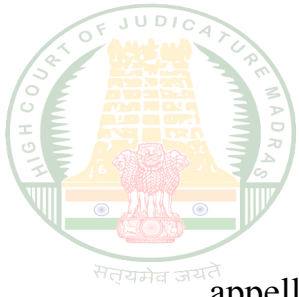


Crl.A.No.119 of 2023

WEB COPY

appellant's house, the appellant had taken her to the first floor of his house and he had committed aggravated penetrative sexual assault by removing her dress. Further, she deposed that she was tutored by her mother even before her deposition and also before making submissions before the police. After registration of FIR, the victim was subjected to medical examination and she was examined by P.W.5. On a perusal of the deposition of P.W.5, it is revealed that she did not find any injury on the private part of the victim and her body and also her hymen was intact, but she found redness on her private part. To that effect, she had given a medical report, which was marked as Ex.P.7. Accordingly, there was no injury or bleeding on the body of the victim and her hymen was intact, but there was redness on her private part. In her cross-examination, she also admitted that the victim herself could have caused it due to itchiness. Therefore, the prosecution failed to prove the charge u/s 5(m) and 5(i) of the POCSO Act.

9. On the side of the accused, he had examined D.W.1. Though D.W.1 is the relative of the appellant, he deposed that on 27.08.2018, at about 06.00 P.M., there was a dispute between the family members of the

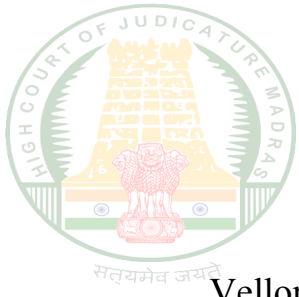


Crl.A.No.119 of 2023

WEB COPY

appellant and the victim and also D.W.1 with regard to purchase of a plot situated adjacent to the house of the appellant. Therefore, it was informed to the jurisdictional police, namely Natrampalli Police Station. Immediately, the police personnel visited there and advised not to quarrel with each other and thereafter, P.W.1 went to the respondent police station and lodged a false complaint against the appellant. In his cross-examination, nothing was illustrated by the prosecution. Therefore, it is clear that there was a dispute between the family members of the appellant and the victim on 27.08.2018 in respect of purchase of a plot, which is allegedly adjacent to the house of the appellant. Therefore, in order to wreck vengeance as against the appellant, a false complaint has been foisted by P.W.1 by using her own child. The present case is a clear example of the misuse of the POCSO Act. Therefore, the conviction and sentence imposed by the Trial Court cannot be sustained and the same is liable to be set aside.

10. Accordingly, the Criminal Appeal is allowed and the conviction and sentence imposed by the Special Court for Exclusive Trial of Cases under Protection of Children from Sexual Offences Act, 2012,



Crl.A.No.119 of 2023

WEB COPY

Vellore, on the appellant in Spl.S.C.No.142 of 2018, dated 24.03.2021, is hereby set aside. The appellant is set at liberty forthwith, if he is not required in connection with any other case. Fine amount, if any paid by the appellant/accused shall be refunded to him. Bail bond, if any, executed by the appellant/accused shall stand discharged.

04.07.2025

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



Crl.A.No.119 of 2023

WEB COPY

- To
- 1.The Special Court for Exclusive Trial of Cases under Protection of Children from Sexual Offences Act, 2012, Vellore.
 - 2.The Inspector of Police,
All Women Police Station,
Vaniyambadi,
Vellore District.
 - 3.The Superintendent,
Central Prison, Vellore.
 - 4.The Public Prosecutor,
High Court of Madras,
Chennai.



WEB COPY



Crl.A.No.119 of 2023

G.K.ILANTHIRAIYAN, J.

sp

Crl.A.No.119 of 2023

04.07.2025