



CrI.A.No.120 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 27.06.2025

CORAM:

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

CrI.A.No.120 of 2023

Sabareeshwaran @ Sabarinathan

...Appellant

Vs.

The State represented by
The Inspector of Police,
Pappireddipatty Police Station,
Dharmapuri District.
In Crime No. 188 of 2016

...Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C, to set aside the judgement and conviction passed in Spl.S.C.No. 27/2017 dated 21.12.2022 on the file of the Fast Track Mahila Court, Dharmapuri and allow the Criminal Appeal by acquitting he appellant herein.

For Appellant : Mr.B.Balavijayan

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

ORDER

This appeal has been preferred as against the judgment passed in Spl.S.C.No. 27/2017 dated 21.12.2022 on the file of the Fast Track Mahila Court, Dharmapuri.



WEB COPY2. The case of the prosecution that the minor victim girl was kidnapped by the appellant to Kerala. The appellant stayed in a rented house and committed aggravated penetrative Sexual assault on the victim girl several times against the victims will. Thereafter, they had gone to Chennai and the appellant left her in the Bus Stand and flew away. On the complaint, the respondent registered a case in FIR in Crime No. 188 of 2016 for the offence under Section 363 of Indian Penal Code and 5(1) read with 6 of the POCSO Act. After completion of investigation, the respondent filed a final report and the same was taken cognizance by the Trial Court.

3. In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.19 and marked Ex. P1 to P16 and on the side of the accused they had marked Ex.D1 and on perusal of the oral and documentary evidence, the Trial Court found that the appellant was guilty for the offence under Section 363 of Indian Penal Code and 5(1) read with 6 of the POCSO Act. Aggrieved by the same, the present appeal is filed.

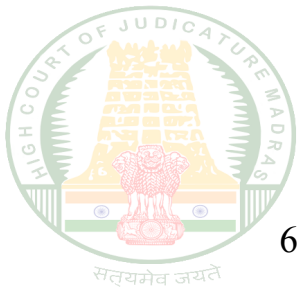
4. The learned counsel appearing for the appellant would submit that



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the prosecution has failed to prove the charges framed against the petitioner/appellant. The victim was examined as P.W.1 and deposed that she was rescued by one Sardhar who is a friend of her father. The father of the victim, on getting the information, had sent Mr.Sardhar to rescue the victim. However, the father of the victim was examined as P.W.2 and deposed that the victim directly called the said Sardhar and he rescued her. Further, the prosecution also failed to prove that the victim was kidnapped to Kerala and subsequently to Chennai. There is absolutely no evidence to show that the appellant kidnapped her to Kerala and thereafter to Chennai. Therefore, the entire conviction and sentence imposed by the Trial Court cannot be sustained and is liable to be set aside.

5. Per contra, the learned Additional Public Prosecutor appearing for the respondent would submit that, in order to bring home the charges, the prosecution examined P.W.1 to P.W.3. The victim was examined as P.W.1, the father of the victim as P.W.2, and the mother of the victim as P.W.3. The person who rescued the victim girl was examined as P.W.5. Immediately after the victim was rescued, she was subjected to medical examination, and the doctor who examined her was examined as P.W.18.

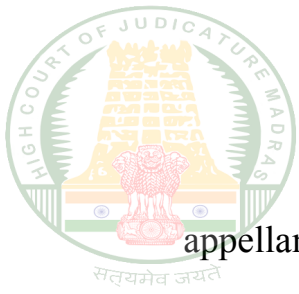


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6. The victim categorically deposed that, under compulsion and threat, she was kidnapped by the appellant to Kerala. In fact, while they were staying in Kerala, the appellant used to lock the door, keeping the victim confined inside the house while he went out. Thereafter, he brought her to Chennai and left her at the Koyambedu Bus Stand and fled. Her deposition is clearly corroborated by the statement recorded under Section 164 of the Cr.P.C., which was marked as Ex.P2. Therefore, the Trial Court has rightly convicted the appellant, and the judgment does not warrant interference by this Court.

7. Heard the learned counsel appearing for the appellant and the learned Additional Public Prosecutor appearing for the respondent.

8. The specific case of the prosecution is that the victim girl, aged about 14 years, was compelled by the appellant to love him, failing which he threatened to commit suicide. While being so, on 25.05.2016, the appellant called the victim and told her to come out of her house, failing which he would commit suicide. Therefore, the victim was compelled to leave her house, and the appellant took her to Kerala. The victim did not know the exact place in Kerala where she was taken by the appellant. They stayed together for 15 days under threat and compulsion by the appellant. In fact, while the



appellant was going out, he used to keep the victim locked inside the house.

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After staying there for 15 days, the appellant once again took the victim to Chennai. During her stay, under compulsion and threat, the appellant had aggravated penetrative sexual assault with the victim. Thereafter, she was brought to Chennai. The appellant told the victim that there was a friend's house in Chennai. Thereafter, he left her at Koyambedu Bus Stand and fled. Though the victim attempted to call him, his phone was switched off. She then called her father and informed him to contact his friend, one Sardhar. Thereafter, the said Sardhar rescued her.

9. Immediately after being rescued, the victim was subjected to medical examination. She was examined by P.W.18. A perusal of the deposition of P.W.18 reveals that she had examined the victim and found that the hymen of the victim was not intact and that there was a possibility of sexual intercourse. The victim informed the doctor that she had stayed with the appellant and had sexual intercourse with him on several occasions. The Accident Register recorded by P.W.18 was marked as Ex.P11. The statement of the victim, recorded under Section 164 of the Criminal Procedure Code, was marked as Ex.P2. A perusal of Ex.P2 reveals that her statement categorically corroborates her deposition before the Court. Therefore, the prosecution has



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proved the charges against the appellant beyond reasonable doubt, and the

WEB COURT Trial Court has rightly convicted the appellant. This Court finds no merits, infirmity, or illegality in the order passed by the Fast Track Mahila Court, Dharmapuri in Spl.S.C.No. 27/2017 dated 21.12.2022.

10. Accordingly, the Criminal Appeal is dismissed.

27.06.2025

Neutral Citation: Yes/No
nsl

To

1. The Inspector of Police,
Pappireddipatty Police Station,
Dharmapuri District.
2. The Additional Public Prosecutor,
High Court of Madras.



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G.K.ILANTHIRAIYAN, J.

nsI

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