



CrI.A.No.275 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.275 of 2025

and

CrI.M.P.No.13675 of 2025

Jagan

... Appellant

Vs.

State represented by the
Inspector of Police,
All Women Police Station,
Thudiyalur,
Coimbatore District.
(Crime No.20 of 2016)

... Respondent

PRAYER: Criminal Appeal filed under Section 415 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to allow the above criminal appeal by calling for the records and set aside the judgment dated 04.01.2025 passed in Spl.C.C.No.13 of 2019 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore.

For Appellant : Mr.S.Sriram
for Mr.K.Govi Ganesan

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



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JUDGMENT

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This Criminal Appeal has been preferred as against the Judgment dated 04.01.2025 passed in Spl.C.C.No.13 of 2019 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore, thereby convicted the appellant for the offences punishable under Sections 10 and 12 of the Protection of Children from Sexual Offences Act, 2012, Section 506(i) of IPC and Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

2. The case of the prosecution is that the victim girl, while studying in the 8th Standard, was staying in Mercy Shelter, which was run by the first accused. The second accused was employed as a cook in the same shelter. While being so, one year prior to 22.04.2016, both the accused engaged in sexual intercourse inside the kitchen, office room and dishwashing area of the shelter during night time, once every two days. They had forced the victim girl to watch them while they were having sexual intercourse. They also threatened the victim girl not to disclose the same to anybody.

3. Based on the complaint, the respondent registered a FIR in



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Crime No.20 of 2016 for the offences punishable under Sections 11(i) read with

WEB COPY 12 of POCSO Act, Section 506(i) of IPC and Section 75 of Juvenile Justice (Care and Protection of Children) Act, 2015. After completion of the investigation, the respondent filed a final report and the same has been taken cognizance in Spl.C.C.No.13 of 2019 on the file of the Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore.

4. On the side of the prosecution, P.W.1 to P.W.12 were examined and Exs.P1 to P13 were marked. On the side of the accused, no witnesses were examined and no documents were marked. On perusal of the oral and documentary evidence, the Trial Court found the appellant guilty of the offence under Section 10 of POCSO Act and sentenced him to undergo five years rigorous imprisonment and to pay a fine of Rs.5,000/- in default of payment of fine, to undergo one year of simple imprisonment. Further, he was convicted for the offence under Section 12 of the POCSO Act and sentenced to undergo two years simple imprisonment and to pay a fine of Rs.2,000/- in default of which to undergo three months of simple imprisonment. He was also convicted for the offence under Section 506(i) of IPC and sentenced to undergo two years rigorous imprisonment. Additionally, he was convicted for the offence under Section 75 of Juvenile Justice (Care and Protection of Children) Act, 2015 and



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sentenced to undergo two years of rigorous imprisonment. Aggrieved by the same, the present Criminal Appeal has been filed.

5. The learned counsel appearing for the appellant would submit that the prosecution failed to prove any of the charges as alleged against the appellant. The appellant is arrayed as A1. There were four complaints with difference version. It creates doubt and suspicion regarding the veracity of the prosecution's case. The prosecution failed to prove the age of the victim girl. Further, there was a delay in lodging the complaint, which remains unexplained. Therefore, the prosecution has miserably failed to prove the charges against the appellant beyond reasonable doubt and therefore, the conviction is liable to be set aside.

6. Per contra, the learned Additional Public Prosecutor appearing for the respondent would submit that the victim girl was examined as P.W.1 and she deposed that she and her brother were staying in the home run by the appellant and that the second accused was working as a cook in the said shelter. The victim further deposed that she was compelled to watch the accused persons engage in sexual intercourse and on one occasion, she was even instructed to hold the legs of one of the accused. Therefore, the victim girl



complained about the said occurrence to her teacher, one Saradha.

Subsequently, she herself lodged a complaint on 22.04.2016, which was marked as Ex.P1. Pursuant to the same, the respondent registered an FIR in Crime No.20 of 2016. Though, the alleged occurrence said to have taken place from 22.04.2015 to 22.01.2016, the complaint was lodged only on 22.04.2016.

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

8. Though the victim had allegedly informed her teacher about the acts committed by the accused, no complaint was immediately lodged. Further, the prosecution failed to examine the said teacher, viz., Saradha, to corroborate the version of the victim girl. The victim did not even whisper on what date the alleged occurrence took place. Even as per the prosecution's case, the complaint came to be lodged one year and three months after the alleged occurrence and there is no satisfactory explanation for such an inordinate delay.

9. The mother of the victim girl, who was examined as P.W.2, deposed that the victim girl has been subjected to the said cruelty for the past one year and has informed it to her. But the mother also did not take any steps to lodge any complaint and she did not inform any of the teachers. According



to the case of the prosecution, both accused had compelled the victim girl to watch their sexual intercourse, however, the prosecution failed to substantially prove the same. There was no explanation for the huge delay in lodging the complaint. It shows that due to previous enmity, a false complaint was lodged by misusing P.W.1. One of the teacher of the school was examined as P.W.3 and she turned hostile. Therefore, the prosecution has miserably failed to prove any of the charges as against the appellant. Hence, 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 04.01.2025 passed in Spl.C.C.No.13 of 2019 on the file of the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore, is hereby set aside. The appellant is acquitted of all charges under Sections 10, 12 of Protection of Children from Sexual Offence Act, 2012, Section 506(i) of IPC and Section 75 of Juvenile Justice (Care and Protection of Children) Act, 2015.

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



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

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Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Internet : Yes/No

Speaking/Non Speaking order

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To

1.The Sessions Judge,
Principal Special Court for Exclusive Trial of Cases under POCSO Act,
Coimbatore.

2.The Inspector of Police,
All Women Police Station,
Thudiyalur, Coimbatore District.

3.The Superintendent,
Central Prison,
Coimbatore.

4.The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN. J.

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