



Crl.A.No.183 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2025

CORAM:

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

Crl.A.No.183 of 2023

Raghul

... Appellant

Vs.

State by
The Inspector of Police,
Kallavi Police Station,
Krishnagiri District.
(Crime No.178/2019)

... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C., to call for the entire records in connection with the Spl.S.C.No.37/2020 on the file of the learned Sessions Judge, Fast Track Magaleer Neethi Mandram, Krishnagiri, Krishnagiri District and set aside the judgment dated 24.01.2023.

For Appellant : Mr.E.Kannadasan

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor

JUDGMENT

This Criminal Appeal has been filed as against the order dated 24.01.2023, passed by the learned Sessions Judge, Fast Track Magaleer Neethi Mandram, Krishnagiri, in Spl.S.C.No.37 of 2020,



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thereby convicted the petitioner for the offences 451 & 380 of IPC and Section 11(4) r/w. 12 of the Protection of Children from Sexual Offences Act (hereinafter referred to as “the POCSO Act”).

2. The case of the prosecution is that on 12.10.2019 at about 3.00 P.M., one of the teachers of the Government Higher Secondary School, Aananthur, kept her phone outside the restroom and had gone inside to attend her natural calls. At that juncture, the appellant had stolen the phone and he himself hid it inside the compound wall of the school. Thereafter, he had taken photographs of the girl students while they were using the restroom. Hence, the compliant. On the compliant, the respondent registered the FIR in Crime No.178 of 2019 for the offences punishable under Sections 354(c), 380 & 451 of IPC and Sections 11(4), 12 of the POCSO Act. After completion of investigation, the respondent filed final report and the same was taken cognizance in Spl.S.C.No.37 of 2020 for the offences punishable under Sections 380 & 451 of IPC and Sections 12 r/w. 11(4) of the POCSO Act.

3. In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.15 and marked documents in Ex.P.1 to Ex.P.14.



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On the side of the prosecution, three material objects were marked in M.O.1 to M.O.3. On the side of the accused, no one was examined and no documents were marked. On perusal of the oral and documentary evidences, the trial Court convicted the appellant for the offences under Sections 451 & 380 of IPC and Section 11(4) r/w. 12 of the POCSO Act and sentenced him as follows :-

S.No.	Conviction	Sentence
1	Section 451 of IPC	to undergo rigorous imprisonment for a period of two years and to pay fine of Rs.1,000/-, in default to undergo simple imprisonment for three months.
2	Section 380 of IPC	to undergo rigorous imprisonment for a period of three years and to pay fine of Rs.1,000/-, in default to undergo simple imprisonment for three months.
3	Section 11(4) r/w. 12 of POCSO Act	to undergo rigorous imprisonment for a period of three years and to pay fine of Rs.1,000/-, in default to undergo simple imprisonment for three months.

The above sentences are ordered to run concurrently. Aggrieved by the said conviction, the appellant filed the present appeal.

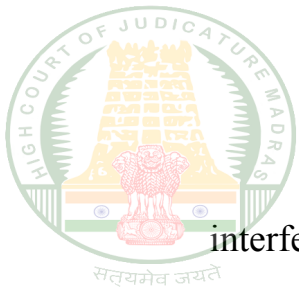


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4. The learned counsel appearing for the appellant submitted that the alleged occurrence had taken place on 12.10.2019. However, he lodged complaint only on 16.10.2019. Whereas the FIR has been registered by the first respondent on 15.10.2019. The complainant was examined as P.W.1. He deposed that, he lodged complaint on 15.10.2019, that too after verification of photographs found in the cell phone. In fact, the respondent asked P.W.1 to lodge fresh complaint. The teachers who were there in the school turned hostile. Therefore, the prosecution miserably failed to prove the charges as against the appellant. He further submitted that the children who are in the photographs allegedly taken by the appellant have also turned hostile. The photographs which were downloaded from the cell phone also did not contain date and time of the photographs. Therefore, the prosecution miserably failed to prove the charges under the POCSO Act.

5. Per contra, the learned Additional Public Prosecutor appearing for the respondent/State raised serious objection and contended that the evidences recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. According to him,



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interference of this Court is not necessary in the findings arrived at by the trial Court.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. On perusal of the records, it is revealed that on 12.10.2019 the occurrence was happened. Immediately, the appellant was caught red handed with the cell phone, which was stolen by him from the toilet. However, the appellant escaped from their custody. Immediately the cell phone was handed over to the respondent for verification. On verification, they found the photographs were taken by the appellant while the girl students of the school were using the restroom. Therefore, P.W.1 had lodged complaint on 15.10.2019. In fact, on the date of occurrence itself, the cell phone was handed over to the respondent and was informed about the incident. After enquiry and after verifying the photographs in the cell phone, the complaint was received from P.W.1. Therefore, there is absolutely no fault on the part of the prosecution to register the FIR.



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8. On perusal of P.W.1 deposition, he categorically stated that on 15.10.2019, he lodged complaint as against the appellant. Mere typographical error about the date of the complaint would not cause any prejudice to the appellant and it would not be fatal to the case of the prosecution. He further deposed that P.W.2 owned cell phone and when she went to the toilet, she kept the cell phone out side the toilet. At that juncture, the appellant had stolen the cell phone and had taken those photographs. Thereafter, the appellant concealed himself in the unused bathroom. He was found by all the teachers and they snatched the cell phone from him. However, the appellant escaped from their custody. They knew his identity and as such his parents were informed and was called upon for enquiry. On 13.10.2019, they appeared before the school and in fact, the members of the Parents Teachers Association and President of the Parents Teachers Association were present during the enquiry. The evidence of P.W.2 was also duly corroborated with P.W.1's evidence.

9. Further the stolen cell phone was produced as material object in M.O.1. The cell of the accused was also produced as M.O.2. The photographs which were down loaded from the mobile phone were



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produced as M.O.3. On perusal of the material objects, it is revealed that when the girl students were using the restroom, the appellant had taken their photographs. Therefore, the appellant had committed a very serious offence against the minor children. Though the minor children turned hostile, it cannot be fatal to the case of the prosecution, since the photographs were taken without the knowledge of the students. Further the minor victim children did not want to disclose their identity for which, and hence, they were not able to depose in the open Court. Therefore, the prosecution categorically proved the case and the trial Court rightly convicted the appellant. This Court finds no infirmity or illegality in the order passed by the trial Court. Hence, the appeal fails and it is liable to be dismissed.

10. Accordingly, the Criminal Appeal stands dismissed.

13.06.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

1. The Sessions Judge,
Fast Track Magaleer Neethi Mandram,
Krishnagiri, Krishnagiri District.

2. The Inspector of Police,
Kallavi Police Station,
Krishnagiri District.

3. The Public Prosecutor,
Madras High Court,
Chennai.

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