



Crl.A. No.547 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2025

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Criminal Appeal No.547 of 2016

K.Sridhar

.. Appellant

Versus

The State Rep. By its
The Inspector of Police,
All Women Police Station,
Panruti.
(Crime No.12 of 2013)

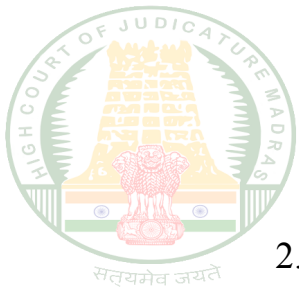
.. Respondent

Criminal Appeal filed under Section 374 (2) of Cr.P.C., praying to set aside the Judgment passed against the Appellant on 24.07.2015 in Spl.S.C.No.5 of 2014 on the file of the learned Sessions Judge, Fast Track Mahila Court, Cuddalore and acquit him from all charges.

For Appellant	:	Mr.R.Hariharan for Mr.E.Vijay
For Respondent	:	Mrs.G.V.Kasthuri Additional Public Prosecutor

J U D G M E N T

This Criminal Appeal has been filed to set aside the Judgment passed by the learned learned Sessions Judge, Fast Track Mahila Court, Cuddalore in Spl.S.C.No.5 of 2014 dated 24.07.2015.



2. The brief facts, which are relevant for consideration in this Appeal, are as follows:-

2.1. The victim in this case lost her mother 10 years prior to the date of occurrence. She was living with her maternal aunt under her care and custody. The maternal aunt of the victim was an agricultural daily wage labourer and she used to work in the field of one Kannaiyan, who is a land owner having agricultural land. The Accused in this case is the son of the said Kannaiyan. In the course of the agricultural work carried out by the maternal aunt of the victim, the victim was also accompanied by her maternal aunt. In the course of such agricultural work, she was acquainted with the son of the land owner Kannaiyan on 03.06.2013. After the day's work, when the agricultural products were taken and was about to be stored in the store room near the house of the land owner, the son of the land owner by around 5.30 p.m., came to the store room which is adjacent to the motor room, he caught hold of the victim under the pretext of love, embraced her, forced her to the ground even though the victim objected, he had forcibly sexual intercourse with her. Also, he informed that she should not inform people outside. In continuation of the same, the land owner Kannaiyan had been constructing a new house, in the newly constructed house, the son of the landlord Kannaiyan summoned the victim on 10.06.2013 by around 6 p.m., to bring water for him to drink.



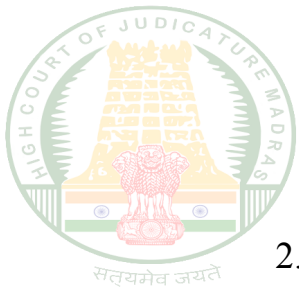
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Believing the words of the Accused/son of the landlord, victim brought water to the newly constructed house for the son of the landlord to drink. At that time, he had forcibly sexual intercourse with her. When she objected, he had informed her that he would expose her to the outside world stating that she is an immoral woman. Therefore, she was forced to co-operate with him. Subsequently, he informed her that she should co-operate with him whenever he demands. Subsequently, the Accused summoned her to the house of his neighbour one Selvaraj, who was working as a Teacher, wherein in the open terrace, he had sexual intercourse with her. On 27.11.2013, the victim was alone at the maternal aunt's house by around 6.00 p.m., the Accused went to the house of the maternal aunt of the victim and had forcibly sexual intercourse with her. This time also, he informed her that if she disclose this to outside, he will expose her as a woman of immoral character. Also, he had given tablets to consume so that pregnancy will be avoided. The maternal aunt of the victim observed that the victim had not had menstruation. On repeated enquiries, she confessed to her maternal aunt, who was shocked by the same. Therefore, she summoned her relatives and the relatives of the victim went to the house of the landlord and complained of the same, for which they had threatened them. The relatives of the victim and her aunt by name Sivagami, Sivaraj and Ayyanar had approached the landlord/Kannaiyan to marry the



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victim to the landlord's son which he flatly refused which forced the relatives of the victim to lodge a Complaint to the Inspector of Police, All Women Police Station. The Inspector of Police, All Women Police Station received a Complaint of the victim and registered a case in Cr.No.12 of 2013 for the offence under Sections 3 r/w. 4, 7 r/w. 8 of the Protection of Children from Sexual Offences Act, 2012 and Section 52 of IPC. The Inspector of Police, All Women Police Station proceeded with the investigation and recorded the statement of the victim as well as relatives of the victim. She visited the place of occurrence and prepared a Rough Sketch and Observation Mahazar in the presence of witnesses. The Inspector of Police, All Women Police Station had sent a requisition letter to the learned Judicial Magistrate for medical examination of victim. She had forwarded the victim with a requisition letter to the Duty Medical Officer, District Head Quarters Hospital, Cuddalore for medical examination and obtained Medical Certificate regarding the same. The Inspector of Police, All Women Police Station forwarded him to the learned Judicial Magistrate, Panruti and sought remand of the Accused for medical examination and forwarded him with a requisition letter to the duty Medical Officer, District Headquarters Hospital, Cuddalore subjected to medical examination and she obtained the medical certificate regarding the same.



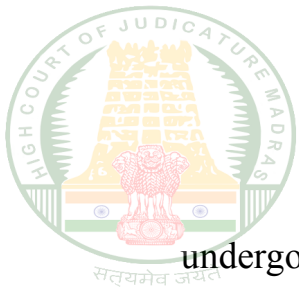
2.2. The Inspector of Police also had sent requisition letter to the learned Chief Judicial Magistrate, Cuddalore to nominate a learned Magistrate to record the statement of the victim under Section 164 Cr.P.C., Accordingly, the learned Chief Judicial Magistrate had nominated the learned Judicial Magistrate – III, Cuddalore to record the statement of the victim and accordingly, the learned Judicial Magistrate had summoned the victim and recorded the statement of the victim under Section 164 Cr.P.C. The Investigation Officer had recorded the statement of the Doctor who had treated the victim and issued Medical Certificate. Also, she had obtained the statement of the Doctor who had examined the Accused and issued Medical Certificate.

2.3. After completion of the investigation, the Investigation Officer, Inspector of Police, All Women Police Station laid the final report of the investigation before the Court of the learned Sessions Judge, Fast Track Mahila Court, Cuddalore. The learned Sessions Judge, Fast Track Mahila Court taken cognisance of the offence alleged against the Accused under Sections 3 r/w. 4, 7 r/w. 8 of the Protection of Children from Sexual Offences Act, 2012 and Section 52 of IPC and numbered it as Spl.S.C.No.5 of 2014 and issued summons to the Accused. On appearance of the Accused, copies were furnished to the Accused under Section 207 of Cr.P.C., After hearing the



learned Public Prosecutor and the learned Counsel for the Accused, the learned Sessions Judge, Fast Track Mahila Court had framed charges against the Accused for the offence under Sections 5 (l) r/w. 6 of the Protection of Children from Sexual Offences Act, 2012. The Accused denied the charges and claimed to be tried. Therefore, the learned Sessions Judge, Fast Track Mahila Court, Cuddalore ordered trial.

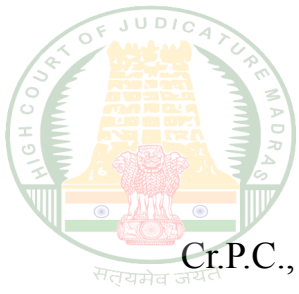
2.4. During trial, to prove the charges, the Prosecution examined 12 witnesses as P.W-1 to P.W-12 and marked 14 documents as Ex.P-1 to Ex.P-14. After closure of Prosecution evidence, the Accused was examined by the learned Sessions Judge, Fast Track Mahila Court, Cuddalore, regarding incriminating evidence available through the Prosecution Witnesses viz., P.W-1 to P.W-12 and through documents under Ex.P-1 to Ex.P-14, the Accused denied incriminating evidence against him. The Accused had not let in evidence. The documents relied by the Accused were marked as Ex.D-1 and Ex.D-2 through the cross-examination of the Prosecution witnesses. After hearing the arguments of the learned Counsel for the defence and the learned Public Prosecutor, the learned Sessions Judge, Fast Track Mahila Court, Cuddalore, by Judgment dated 24.07.2015 passed in Spl.S.C.No. 5 of 2014 convicted the Accused for the offence under Sections 5 (l) r/w. 6 of the Protection of Children from Sexual Offences Act, 2012 and sentenced him to



undergo 10 years of Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 6 months of Simple Imprisonment.

2.5. Aggrieved by the judgment of conviction and order of sentence, the Accused had preferred this Criminal Appeal.

3. The learned Counsel for the Appellant submitted that the Appellant was convicted for the offence under Section 5 r/w. 6 of the Protection of Children from Sexual Offences Act, 2012. P.W-1 is the victim in this case. P.W-2 is her paternal aunt. P.W-3 is her cousin on the paternal side. P.W-4 and P.W-5 are Mahazar Witnesses and they are turned hostile. P.W-6 is the relative of P.W-1 to P.W-3. P.W-7 is the Doctor who had examined the victim regarding sexual offence and issued certificate to that effect under Ex.P-5. P.W-8 is the Doctor who had examined the Accused regarding potency and issued medical certificate under Ex.P-6. P.W-9 is the Doctor who had examined the victim and the Accused and issued Radiological Report regarding the age of the Accused and the victim under Ex.P-8 for the Accused and Ex.P-7 for the victim. As per the Radiological Report, the age of the victim is above 17 and below 18 and the age of the Accused is 30 years as on the date of examination ie., 06.12.2013. P.W-10 is the learned Judicial Magistrate-III who had recorded the statement of the victim under Section 164

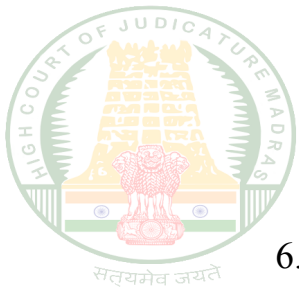


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Cr.P.C., under Ex.P-9. P.W-11 is a relative of the victim. P.W-12 is the Investigation Officer/Inspector of Police, All Women Police Station, Panruti.

4. The learned Counsel for the Appellant submitted that it is a case of consensual sex between the Accused and the victim. But the case had been foisted as though it is a case under the Protection of Children from Sexual Offences Act, 2012. Only to wreck vengeance on the Accused misusing the Provisions of the Protection of Children from Sexual Offences Act, 2012.

5. The learned Counsel for the Appellant submitted that as per the deposition of P.W-1, the victim and the Accused were lovers and they had indulged in sexual intercourse. Subsequently, there had been difference of opinion between them and they separated. Accordingly, to wreck vengeance on the Accused, the relatives of the victim joint together and after discussion, they had filed a complaint as though it is an offence under the Protection of Children from Sexual Offences Act, 2012. The Inspector of Police, All Women Police Station had taken the Complaint and registered the FIR under Ex.P-11 on 04.12.2013. As per the evidence of the victim, she was born in the year 1998. Therefore, as on 2013, Fifteen years. But the Radiological report is clear that she is above 17 and below 18. In the Radiological report there may be +/-2.



6. The learned Counsel for the Appellant invited the attention of this

Court to the evidence of the victim and the exhaustive cross examination.

Also, he invited the attention of this Court to the contents of the Complaint under Ex.P-1. As per the Complaint, it is stated that she is aged 16 as per the date of Complaint 04.12.2013 and she had clearly stated that she was in love with the Accused and in the course of such love affair, they had sexual intercourse and subsequently she had taken medicine for abortion and aborted the pregnancy. When the fact came to be known to her paternal aunt/P.W-2, P.W-2/Paternal aunt along with paternal uncle son/P.W-3 went to the house of the Accused and requested the parents of the Accused to marry her to the Accused for which the family of the Accused attacked P.W-1 to P.W-3. Therefore, she had requested the Inspector of Police, All Women Police Station, Panruti to help her to be married to the Accused and not to take action under Protection of Children from Sexual Offences Act, 2012 or legal action. In the course of the evidence, in the evidence of P.W-2 and P.W-3 and P.W-11, they had stated that there had been Panchayat in the Village with the elders in the Village and the Panchayat could not settle the marriage, the Complaint was lodged. Only to wreck vengeance on the Accused, the Complaint had been drafted, the case had been developed by the Investigation Officer as though it attracts the Provisions of the Protection of Children from Sexual Offences Act,



2012.

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7. The learned Counsel for the Appellant invited the attention of this Court to the evidence of witnesses P.W-1 to P.W-3, P.W-11 and P.W-6 who are all related to the victim. The Mahazar witnesses remained hostile. The medical evidence does not support the claim of the Prosecution Witnesses particularly victim.

8. Also, he invited the attention of this Court to the evidence of the Investigation Officer as P.W-12 and the evidence particularly in cross-examination since the Investigation Officer felt the Complainant's Complaint was a weak Complaint. She had has an afterthought recorded the statement of the victim and sent it to the Court in the year 2014. All the documents were sent to the Court of the learned Judicial Magistrate only in the year 2014 and not at the earliest point of time. Therefore, the Investigation was shoddy. She had not conducted investigation in a fair manner. She had admitted in the cross-examination that the victim prosecutrix had not stated previous occurrences with all the details. Ex.P-10 showing the birth certificate of victim is not that of the victim it was procured by the Investigation Officer to suit the facts of the case. The Prosecution witnesses/P.W-2 is the paternal aunt, P.W-3 is the paternal uncle son, P.W-6 is the paternal aunt son and P.W-11 is also a



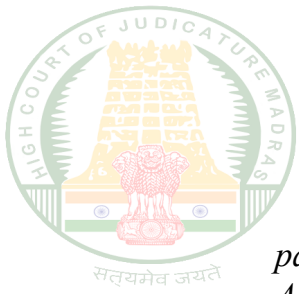
relative of the victim. Therefore, they have just supported the case of the Prosecution. They are hearsay witnesses. The Prosecution failed to prove the charge as framed by the trial Court. The learned trial Judge had on assessment of evidence, mechanically convicted the Accused based on section 29 of the Protection of Children from Sexual Offences Act, 2012 under presumption, which is therefore perverse and the Judgment of Conviction and sentence of Imprisonment awarded to the Accused is perverse and is to be set aside.

9. The learned Counsel for the Appellant had relied on the ruling of the Hon'ble Supreme Court in **(1975) 4 SCC 497** in the case of **Ram Narain Singh Vs. State of Punjab** wherein it has been observed as follows:-

“14. Where the evidence of the witnesses for the Prosecution is totally inconsistent with the medical evidence or the evidence of the ballistic expert, this is a most fundamental defect in the Prosecution case and unless reasonably explained it is sufficient to discredit the entire case. In Mohinder Singh Vs. State in the case of 1950 SCR 821 : AIR 1953 SC 415, this Court observed in similar circumstances as follows:

In a case where death is due to injuries or wounds caused by a lethal weapon, it has always been considered to be the duty of the Prosecution to prove by expert evidence that it was likely or at least possible for the injuries to have been caused with the weapon with which and in the manner in which they are alleged to have been caused. It is elementary that where the Prosecution has a definite or positive case, it is doubtful whether the injuries which are attributed to the Appellant were caused by a gun or by a rifle.

It is obvious that where the direct evidence is not supported by the expert evidence, then the evidence is wanting in the most material



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part of the Prosecution case and it would be difficult to convict the Accused on the basis of such evidence. While appreciating the evidence of the witnesses, the high Court does not appear to have considered this important aspect, but readily accepted the Prosecution case without noticing that the evidence of the eyewitnesses in the Court was a belated attempt to improve their testimony and bring the same in line with the doctor's evidence with a view to support an incorrect case.”

Also he relied on the following rulings:-

- (i) (2008) 16 SCC 471 in the case of Noor Aga Vs. State of Punjab.***
- (ii) 2020 16 SCC 709 in the case of Hanif Khan Vs. Central Bureau.***
- (iii) 2021 4 Gau LR 430 in the case of Saiful Islam Vs. State of Assam.***
- (iv) 2022 SCC Online Mad 1660 in the case of Ashraff Ali Vs. State of Tamil Nadu.***
- (v) 2020 SCC Online Ker 3368 in the case of David Vs. State of Kerala.***

10. In support of his contention regarding appreciation of evidence by the trial Court and re-appreciation of evidence by the Appellate Court independently. If the Appellate Court arrives at a conclusion that two views are possible the benefit of acquittal shall be extended to the Accused. Also, it is the submission that the evidence of the Prosecutrix or the victim is of sterling quality, the Court shall convict the Accused. If not, merely based on



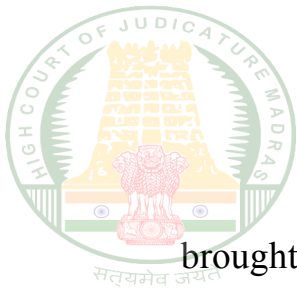
presumption under Section 29 of the Act that the Accused had not let in rebuttal evidence. The Court shall not convict the Accused. Merely because, the Accused had not let in rebuttal evidence in the light of the ruling reported in **(2008) 16 SCC 417** in the case of **Noor Aga Vs. State of Punjab**, it is a case under NDPS Act where the presumption under Section 35 (i) of NDPS Act and the reverse burden on the Accused had been discussed.

11. It is the contention of the learned Counsel for the Appellant that the learned Sessions Judge, Fast Track Mahila Court had not considered the entire materials available before the Trial Court not assessed and analysed the facts and circumstances of this case properly as per the Provisions of the Indian Evidence Act and had drawn the adverse inference about the Accused not letting in rebuttal evidence. The learned Judge had invoked the Provisions of Section 29 of the Protection of Children from Sexual Offences Act, 2012 to consider that the prosecutrix evidence is the bona fide truth and had convicted the Accused. The first incident, as per the evidence of the Prosecutrix was that on the day, when she went along with her paternal aunt/P.W-2 to work as labourer in the field of Accused and after a days where she went to keep the agricultural implements in the motor room in the house of the Accused, the Accused bolted the door of the motor room from inside and gaged her mouth and had forced sexual intercourse with her. Also, he is alleged to have stated



that she should not mention about this to anyone. The second occurrence was in the house of the Accused which is under construction. When she was asked to get water and on that pretext, he had dragged her inside the under construction house and had forcibly intercourse with her. The third incident, she had in a Vathiyar house on the terrace near the house of the Accused. Fourth is the place where when her Aunt was not at home. When they had gone to attend a puberty function, victim was alone in P.W-2's house. The Accused had come over and had intercourse. These details were not stated to the Investigation Officer at the earliest point of time. This was not stated in the statement under Section 164 Cr.P.C., made by the victim before the learned Judicial Magistrate. These are all developments to develop the case of the Prosecution before the Court, to wreck vengeance on the Accused. Also, she had stated that he had threatened her that he will disclose those facts to the villagers and make sure that she does not walk in the society with reputation and thereby threatened her and whenever, he summoned for sexual intercourse, she had to comply her.

12. The learned Counsel for the Appellant invited the attention of this Court to the cross-examination of prosecutrix herself regarding these afterthought development in her deposition and the same in the cross-examination of P.W-2, the paternal aunt of the victim. The same had been



brought out in the cross-examination of P.W-3 also. Therefore, the defence of the Accused was proved in the cross-examination of witnesses. Therefore, the credibility of the Prosecution witness was lost. Still, the learned Sessions Judge failed to consider those aspects in the cross-examination of the Prosecution witnesses P.W-1 to P.W-3, P.W-6 and P.W-11. Only if the Prosecution case is established, the reverse burden is on the Accused as per the rulings reported in ***2021 4 Gau LR 430 in the case of Saiful Islam Vs, State of Assam; 2022 SCC Online Mad 1660 in the case of Ashraff Ali Vs. State of Tamil Nadu and 2020 SCC Online Ker 3668 in the case of David Vs. State of Kerala.***

13. Under those circumstances, the learned Sessions Judge, Fast Track Mahila Court, Cuddalore had not considered the settled position of law regarding Section 29 of the Protection of Children from Sexual Offences Act, 2012 which had been explained by various Judgments of the Hon'ble Supreme Court as well as the various High Courts in India.

14. The learned Counsel for the Appellant also invited the attention of this Court to presumption under Section 29 of the Protection of Children from Sexual Offences Act, 2012 cases only ruling reported in ***2021 4 Gau LR 430 in the case of Saiful Islam Vs, State of Assam.*** Therefore, the learned Counsel



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for the Appellant sought to set aside the Judgment and conviction recorded by the learned Sessions Judge, Fast Track Mahila Court, Cuddalore in Spl.S.C.No.5 of 2014 dated 24.07.2015.

15. The learned Additional Public Prosecutor vehemently objected to the submission of the learned Counsel for the Appellant stated that the evidence of the prosecutrix/P.W-1 had to be considered taking into consideration of her educational status and social status. She was a fifth standard dropped out from School. She had lost her parents. She had under the care and protection of paternal aunt who is also a farm labourer. P.W-2 had taken her for farm work along with her to the agricultural field of family of the Accused where the Accused acquainted with her and played havoc in her life by expressing love. The innocent girl of teenage as on 2013, she was only age 15. She had clearly stated that her birth is 1998 and she was born in Bahur in Pondicherry. The Investigation Officer is the Inspector of Police, All Women Police Station, Panruti which has territorial jurisdiction over the place of occurrence and Panruti is not far away from Pondicherry which is an adjoining District. Therefore, she had collected the necessary documents with the help of the relatives. P.W-1, in her evidence, had clearly stated that her father's name as Ranganathan. By the time, the trial in the case proceeded, she was aged 17. In cases of this nature, the Investigation officer collect the details of the birth



certificate or the date of birth either from the School or birth certificate if available from the authority concerned. Here, they had furnished the birth certificate of the victim under Ex.P-10 where the name of the mother and the father is found. Therefore, the claim of the Appellant that it was procured by the Investigation Officer to suit the case of the Prosecution is fertile imagination. It has to be rejected. If what had been stated by the Accused had been proved, the Accused ought to have attacked Ex.P-10 by adducing evidence to that effect to disprove the age of the victim. The Radiological test can only give the range of the age and it is not exact age as per the rulings of the Hon'ble Supreme Court as well as various High Courts. While considering the age based on radiological report, it may have +/-2 years error which can be taken advantage by the Accused. Therefore, to avoid such error, the Investigation Officer had clearly furnished the birth certificate of the victim. Further, it is to be noted that the evidence before the Court is to be considered as valuable defence. What was stated before the Police Authorities are not evidence and what was stated before the learned Judicial Magistrate under Section 164 Cr.P.C., is not evidence. It is only a material collected by the Investigation Officer to ensure that the investigation proceeded on the right path and not for the evidence of the victim under 164 statement recorded by the learned Judicial Magistrate is a mandatory provision followed by the



Investigation Officers as per the Provision of the Protection of Children from Sexual Offences Act, 2012. Therefore, what was not stated before the learned Judicial Magistrate and what was not stated before the Investigation Officer under 161 statement does not affect the Prosecution case. Even if the investigation had lapses, the same cannot be exploited by the Accused as far as Protection of Children from Sexual Offences Act, 2012 case is concerned. Therefore, the presumption under Section 29 of the Protection of Children from Sexual Offences Act, 2012 is a strong presumption favouring the children who were exploited because of their ignorance and innocence. Therefore, the above rulings cited by the learned Counsel for the Appellant will not help the Appellant herein.

16. The ruling cited by the learned Counsel for the Appellant regarding presumption under Section 29 of the Protection of Children from Sexual Offences Act, 2012 and the presumption under Section 118 of the Indian Evidence Act and presumption under Section 35 of NDPS Act in the reported ruling in *Noor Aga's case* will not help. The presumption under vigilance case in *Hanif Khan Vs. Central Bureau reported in 2020 16 SCC 709* will not help the facts and circumstances of this case. The first point of attack by the learned Counsel for the Appellant is that the FIR and the Complaint were belated. It is true, the victim had explained the victim's



relatives viz., P.W-2, P.W-3, P.W-6 and P.W-11 are relatives who are interested in the welfare of the minor child as she has lost her parents. Therefore, to take care of her, the person who had ravished her was accountable, therefore, they wanted to try for a marriage. Since they were attacked by the Accused and his relatives, the FIR was registered against the entire family (brother of the Accused, mother of the Accused). As the investigation proceeded, there was not much materials available to incriminate the mother and brother of the Accused. Therefore, the Investigation Officer/P.W-12 had filed the report before the learned Judicial Magistrate deleting the names of the mother and brother of the Accused under Ex.P-14. The fact that the statement of the witnesses and the investigation records reached the Court belatedly will not be affecting the Prosecution case. The Accused cannot get the advantage of the lapses in the investigation to his advantage. Therefore, it was not a shoddy investigation as pointed out by the learned Counsel for the Appellant. With due care and diligence, the investigation proceeded, laying the final report against the Accused with all relevant materials. The mandatory provisions to find out the age of the victim and Accused, the mandatory provisions regarding subjecting the victim and Accused to medical examination were carried out by the Investigation Officer through P.W-7 to P.W-9. P.W-7-Gynecologist who had examined the victim and issued a report under Ex.P-5 wherein it had been



clearly stated that the victim was subjected to sexual intercourse. The evidence of the prosecutrix clearly stated that the Accused under the pretext of love affair had intercourse with her in the motor room of his house and using it as a blackmail and threatened her to comply his demand for sexual favours every now and then as per his demand.

17. As per the reported ruling of *Ganesan vs. State of Tamil Nadu reported in (2020) 10 SCC 573*, if the evidence of the victim inspires confidence, the learned trial Judge shall convict the Accused. Here, the learned Additional Public Prosecutor invited the attention of this Court to the evidence of victim in the chief examination as well as cross-examination. The cross-examination, she had given replied to the question that she had not stated so in the statement before the learned Judicial Magistrate and the Investigation Officer at the earliest point of time under 164 statement under Ex.P-2.

18. The learned Additional Public Prosecutor invited the attention of this Court to the details of 164 statement in which she had narrated at the earliest point of time which inspires confidence of the Investigation Officer that the investigation is on the right path. She had narrated all the incidents under 164 Cr.PC., before the learned Judicial Magistrate recorded under Ex.P-2 which was reflected in the examination-in-chief before the Court. Therefore,

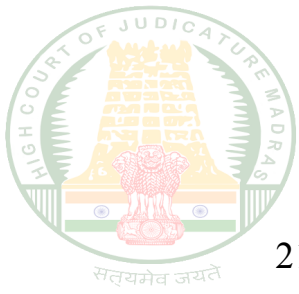


evidence of the victim before the Court is sterling quality which inspires confidence of the Court.

19. The learned Additional Public Prosecutor invited the attention of this Court to the evidence of the paternal aunt who had found out the reason for the victim girl aged about 15 being appearing tired when P.W-2 returned from puberty function of a relative. She and P.W-3 noticed that the girl was unusually tired. Only woman can appreciate what could have happened. Therefore, she on her own made enquiry with the child victim as she is the care taken of the victim, on her repeated questioning, the victim opened up and narrating the entire incident.

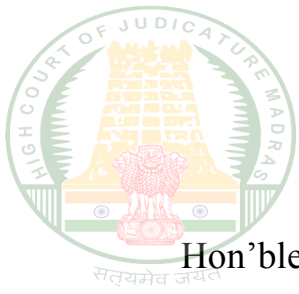
20. The learned Additional Public Prosecutor also invited the attention of this Court to that deposition of witness of P.W-2. The relevant portion is extracted hereunder:-

“நாங்கள் மஞ்சள் நீராட்டு விழாவிற்கு சென்று விட்டு திரும்பி மாலை 6.00 மணி அளவில் வீட்டிற்கு வந்தபோது கீதா சோகமாக உட்கார்ந்திருந்தார். நான் என்னவென்று கேட்டதற்கு கீதா, தன்னை ஸ்ரீதர் கெடுத்துவிட்டதாக சொன்னது. மேலும் கொல்லை வேலைக்கு போகும்போது ஸ்ரீதரின் மோட்டார் கொட்டகையிலும், வாத்தியார் வீட்டிலும், மற்றும் புது வீட்டிலும் ஸ்ரீதர் தன்னை கெடுத்ததாக கீதா என்னிடம் சொன்னார். நானும் என் கணவர் அய்யனாரும், சிவராஜ் எதிரி வீட்டிற்கு சென்று கேட்டபோது உங்களால் முடிந்ததை பாருங்கள் என்று எதிரி சொல்லிவிட்டார்”



21. The submissions of the learned Counsel for the Appellant highlighting the contradictions discrepancies in the cross-examination of the victim and the relatives will not help, there are minor contradictions in any criminal cases, there are guidelines of Hon'ble Supreme Court regarding appreciation of evidence wherein the Court has to consider the educational status and social status of the victim where they deposed before the Court, there may be minor contradictions or discrepancies to which cannot be given undue advantage.

22. Also, the learned Additional Public Prosecutor submitted that in cases of this nature, there cannot be any direct witnesses or ocular witnesses or neighbours of the victim or the Accused who will volunteer act as witnesses. Naturally, the relatives alone had to take care of the victim and they had sought the help of the elders in the Village for attempting or arranging the marriage with the Accused as the incidents proceeded as of it was a love affair. Only when they were attacked by the Accused and the relatives that they came to know that the ploy played by the Accused to expect sexual desire of the Accused with the victim. Misusing the innocence and the social status of the victim as a parentless child and under the care of her paternal aunt who is a farm labourer. Therefore, they will not go to Court and Police station. What are all the rulings cited by the learned Counsel for the Appellant, the ruling of the



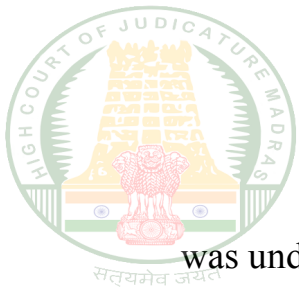
Hon'ble Supreme Court as well as various High Court are only discussions regarding Section 29 of the Protection of Children from Sexual Offences Act, 2012 and the Appeals preferred by the Accused in those cases were dismissed. Therefore, the rulings cited by the learned Counsel for the Appellant will not help the case of the Accused.

23. The learned Additional Public Prosecutor also relied on the ruling reported in ***Ganesan vs. State of Tamil Nadu reported in (2020) 10 SCC 573***. Even if the arguments is sake, if the investigation is shoddy, the victim narrates the incident before the Court, even if there are discrepancies because of the status of the victim as a teenager, innocent, illiterate or semi-illiterate, not worldly wise. Those things had to be appreciated by the Court from the angle of a village rustic. Here what are all stated by the learned Counsel for the Appellant that it was a consensual sex will not help the Accused to wriggle out of this case. It is a case of sexual exploitation of the minor girl by a man aged 30 years only for sexual pleasure. Therefore, the Protection of Children from Sexual Offences Act, 2012 was enacted by parliament to punish the culprits like the Accused in this case who go caught free when there was no such law on the statute book under the ordinary Indian Penal Code. Therefore, the protection given to the children under the Protection of Children from Sexual Offences Act, 2012 under Section 29 is a valuable material. The Accused



cannot seek protection as free trial and guaranteed liberties of the citizens as per the reported ruling in *Noor Aga Vs. State of Punjab reported in (2008) 16 SCC 417* will not help the case of the Accused. The ruling of *Hanif Khan Vs. Central Bureau reported in 2020 16 SCC 709* also will not help the case of the Accused.

24. The learned Additional Public Prosecutor invited the attention of this Court to the discussion of evidence by the learned Sessions Judge, Fast Track Mahila Court. The learned Judge had in the discussion of evidence had clearly stated it was a case of total denial by Accused. He had claimed that he does not know who the victim prosecutrix was. The victim had lost her mother 10 years prior to the date of occurrence and she was under the care of her paternal aunt. Her father was mentally affected after the death of her mother. That fact was spoken to about by the relatives of the victim/P.W-3, P.W-4, P.W-6 and P.W-11 regarding mental condition of the father of the victim. P.W-12 had in her evidence deposed that she had examined the father of the victim and from his retraction found that he was not mentally stabled. Therefore, his statement was not recorded. The victim had studied upto fifth standard in Bahur in Pondicherry. P.W-11 had provided the birth certificate of victim under Ex.P-10 to the Investigation officer. It is his evidence that he had taken care of the child victim for her education upto fifth standard, subsequently she



was under the care of the paternal aunt/P.W-2 herein.

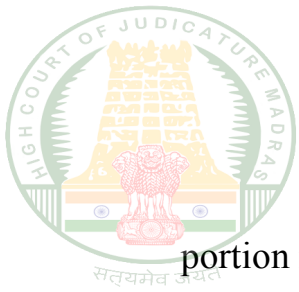
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25. The learned Additional Public Prosecutor invited the attention of this Court to the discussion of evidence by the learned Sessions Judge, Fast Track Mahila Court, the objection of the Accused regarding marking of Ex.P-10-birth certificate of the victim. The learned Counsel for the Accused before the trial Court had relied on the ruling reported in *AIR 2011 SCC 1492 in the case of H.Sidiqui (dead) by Lrs., Vs. A.Ramalingam*; *AIR 2007 SCC 1721 in the case of J.Yashoda Vs. K.Shobha Rani*; and *2014 (10) SC 473 in the case of P.V.Anvar Vs. P.K.Basher & Others*, that the birth certificate of the victim cannot be marked and cannot be relied as a valuable document. It is an inadmissible evidence. The learned Sessions Judge has pointed out that it contained the registration number, the signature and seal of the authorities at Pondicherry. If the objection of the Accused is true, the Accused ought to have summoned Officials from the Pondicherry Government as defence witnesses regarding the dispute regarding the birth certificate of the victim. Since they had not done so, the objection of the Accused was rejected. Also, he had discussed about the radiological report regarding the age of the victim as between 17 and 18. The evidence of the Radiologist as P.W-9 and the Ex.P-10 regarding the age of the birth certificate of the victim was discussed and as per the birth certificate it was 08.01.1998 was accepted by the learned Judge. The



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learned Sessions Judge had also discussed the defence of the Accused that the Complaint was belated by 6 months after the alleged occurrence and the FIR registered belatedly cannot have any importance before the Court for which the learned Counsel for the Accused relied on the ruling reported in **(2001) 6 SCC 71 in the case of State of H.P Vs. Gianchand; 2013 Criminal Law Journal 2062 SC in the case of Rajesh Patel Vs. State of Jargant**. In cases of sexual assault, the explanation offered by the victim and their family if found acceptable, the Court can accept the delay in filing Complaint or delay in filing FIR was accepted by the learned Judge and the rulings relied by the learned Counsel for the defence was rejected. The repeated sexual assault committed by the Accused on the victim aged 15 under the pretext of love affair and subsequently blackmailing her that he will expose her in society and she cannot walk in the society by holding her head high shows his criminal intent to exploit the minor girl to the hilt was also discussed by the learned Judge. The claim of the defence that the victim had improved her statement before the Investigation Officer by introducing new facts in the deposition before the Court which cannot have evidentiary value was also discussed by the learned Judge. The learned Judge had also relied on the ruling cited by the Prosecution in support of the victim of sexual assault in the reported ruling **(2012) 3 SCC Crl. 67 in the case of Jitendar Kumar Vs. State of Haryana**. The relevant



portion reads as follows:-

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“The Court has also to consider the fact that the main purpose of the FIR is to satisfy the police officer as to the commission of a cognizable offence for him to conduct further investigation in accordance with law. The primary object is to set the criminal law into motion and it may not be possible to give every minute detail with unmistakable precision in the FIR. The FIR itself is not the proof of a case, but is a piece of evidence which could be used for corroborating the case of the Prosecution. The FIR need not be an encyclopedia of all the facts and circumstances on which the Prosecution relies. It only has to state the basic case. The attending circumstances of each case would further have considerable bearing on application of such principles to a given situation. Reference in this regard can be made to [State of U.P. Vs. Krishna Master and Ors.](#) [(2010) 12 SCC 324] and [Ranjit Singh and Ors. Vs. State of Madhya Pradesh](#) [(2011) 4 SCC 336]. “

(ii) (2012) 6 SCC 204 in the case of Sunilkumar and another Vs. State of Haryana, and rejected the defence of the Accused that the victim had improvised her case by introducing new facts in her deposition. The learned Judge had in Paragraph Nos. 27 to 29 had discussed about the attitude of the victim towards a helpless innocent Village girl who had dropped out school at 5th standard due to loss of her mother and her father affected by mental disorder. The victim having been subjected to sexual intercourse was corroborated by the evidence/P.W-7 and the report by P.W-7 under Ex.P-5. The evidence of P.W-8/Doctor who had examined the Accused and issued potency certificate under Ex.P-6 was also relied by the learned Judge. The argument of the learned Counsel for the defence before the trial Court that as per the ruling



reported in (2013) 14 SCC 643 in the case of *Lillu @ Rajesh and another Vs.*

State of Haryana by which the evidence of the Doctor, who had subjected the victim to medical examination using finger insertion cannot be relied by the Court, it affects the decency of the victim of sexual assault and deprecated by the Court as it affects the reputation of the victims of sexual assault was also relied by the learned Sessions Judge stating that the reported ruling is regarding the attempt of the defence to claim that the prosecutrix is prone to immoral life that was deprecated by the Hon'ble Supreme Court and not test of the Doctors. Therefore, the reliance placed by the learned Counsel for the defence was also rejected.

26. The ruling cited by the learned Counsel for the Accused before the trial Court was also discussed in the Judgment dated 24.07.2015 in Spl.S.C.No.5 of 2014. The learned Judge had stated that before the trial Court when she deposed evidence she had cogently narrated the entire incidents and on assessment of the evidence of victim, the learned Judge found out the girl who had lost her mother before 10 years and whose father mentally unstable due to the death of her mother and the girl who was under the care of P.W-2 and P.W-2 is a daily wage labourer working in the farm belonging to the Accused. Therefore, the innocence and the helplessness of the family of the victim was exploited by the Accused who is aged 30, he is not a teenager.



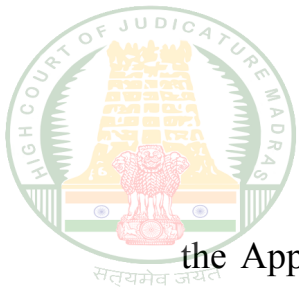
Therefore, the discussion of the learned Judge is on proper perspective as per the Provisions of the Protection of Children from Sexual Offences Act, 2012 as well as Provisions of the Indian Evidence Act. Therefore, the learned additional public prosecutor submitted that the evidence of P.W-2, P.W-3, P.W-6 and P.W-11 are natural consistent. They are the persons who are relatives interested in the welfare of the child. In their evidence had stated that they have attempted to approach the family of the Accused for arranging the marriage of the Accused and the victim since they were attacked by the Accused and threatened, they had no other go than to approach the Police. The evidence of the Prosecution through P.W-1 to P.W-3, P.W-6 and P.W-11 and the evidence of the Official witnesses/Doctors had proved the case against the Accused attracting the provisions under Section 29 of the Protection of Children from Sexual Offences Act, 2012. It is for the Accused to disprove by reverse burden as per the reported ruling cited by the Accused as Appellant before this Court. He had not done so. That was also discussed by the learned Judge.

27. Without evidence merely on Section 164 Cr.P.C., if the learned trial Judge convict the Accused based on presumption then the ruling cited by the Accused as Appellant before this Court will help the case of the Accused. The facts and circumstances of this case is not so. The learned Sessions Judge



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had appreciated the evidence considering the fact that the victim as well as the family members are poor farm labourers helpless people, they had been exploited by the Accused in whose cultivable land, the victim and her paternal aunt/P.W-2 were employed as labourers. Under the guise of love affair, the Accused exploited the ignorance and innocence of the victim and forcibly had sexual intercourse with her and using that ploy blackmail her he will expose her outside the world if she does not comply to his demand for sexual favour. It is a fit case attracting provision of the Protection of Children from Sexual Offences Act, 2012. The objection of the learned Counsel for the Accused before the trial Court regarding birth certificate of the victim under Ex.P-10 had no legal basis. Therefore, it was also rejected. The best evidence available before the Court is birth certificate that was duly procured by the investigation officer through the relatives of the victim. P.W-11 had a resident of Bahur in Pondicherry, the native Village of the victim where she was born and brought up till 5th standard is natural. Therefore, the objection regarding Ex.P-10 was rejected. If the Accused had doubt about Ex.P-10, the Accused ought to have summoned the documents from the Pondicherry Government, he had not done so. Therefore, the presumption under Section 29 of the Protection of Children from Sexual Offences Act, 2012 holds good. Therefore, the learned Additional Public Prosecutor submitted that the submissions of the learned Counsel for

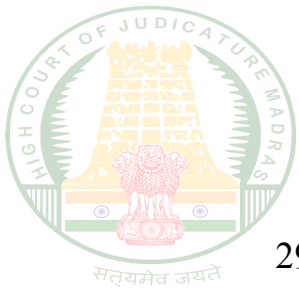


the Appellant does not hold good as per the reported ruling by the learned Counsel for the Appellant. The rulings are in favour of the victims of Protection of Children from Sexual Offences Act, 2012. The Accused cannot advert to Section 29 of the Protection of Children from Sexual Offences Act, 2012 and attack the judgment of the learned Sessions Judge. The learned Sessions Judge had on proper appreciation of evidence had discussed the objections of the learned Counsel for the Accused before the trial Court and also considered the rulings cited by the learned Counsel for the Accused before the trial court rejected those rulings in the facts and circumstances of this case with valid reasons. Therefore, it is a well-reasoned Judgment does not warrant interference of this Court. This appeal lacks merit and is to be dismissed.

Point for consideration

Whether the Judgment of the learned Sessions Judge, Fast Track Mahila Court, Cuddalore, in Spl. S.C.No.5 of 2014, dated 24.07.2015 is perverse warranting interference by this court?

28. Heard the learned Counsel for the Appellant Mr. R. Hariharan for Mr.E. Vijay and the learned Additional Public Prosecutor Mrs.G.V.Kasthuri for the State.



29. Perused the evidence of the Prosecution Witnesses P.W-1 to P.W-12 and the documents marked on the side of the Prosecution under Ex.P-1 to Ex.P-14 and the Judgment of the learned Sessions Judge dated 24.07.2015 in Spl.S.C.No.5 of 2014 and the grounds of appeal raised by the learned Counsel for the Appellant. It is true that the victim had not stated who had written the complaint under Ex.P-1. But the contents of the complaint was deposed as evidence. The contents of the complaint was reflected under Ex.P-2, the statement recorded from the victim under 164 Cr.P.C., by the learned Judicial Magistrate on the requisition of the Investigation Officer/P.W-12.

30. As pointed out in the grounds of appeal, there are lapses on the part of the investigation officer. As per the evidence of P.W-1, there were four instances, when the Accused is alleged to have indulged in sexual intercourse with the victim by use of force and blackmail under the pretext of love. Therefore, it cannot be treated as consensual sex. The age of the victim is more important in the cases of this nature. The social status of the victim is also to be considered. P.W-1 had lost her mother 10 years back before the occurrence. Her father is mentally unstable after the death of her mother. She had dropped out of her School after 5th standard, she is under the care of the paternal aunt/P.W-2. P.W-2 is a daily wage labourer working in the agricultural fields



including the farm of the Accused. Exploiting those situations, P.W-2 had taken P.W-1 along with her farm work by which the Accused had acquainted with the victim as per the evidence of P.W-1. On a particular day, when she had gone to the motor room pumpset to keep the agricultural implements, in safe custody, the Accused closed the door of the room and forcibly removed the dress of the victim and indulged in sexual intercourse and threatening her not to expose to outside. At the same time, he had made that whenever he summons her she had to comply his demand. Again this case was repeated in a nearby house where the new house is being built for the family of the Accused. Again a similar occurrence took place a nearby house belonging to teacher where the victim identifies the house as “Vathiyar Veedu”. The fourth instance was in the house of the victim’s aunt, when the aunt was away on the puberty function of a relative. When the aunt returned she noticed the victim looking tired and sick. On her observation, she noticed something amiss whereupon she probed by making enquiries with the victim, she forced the victim, opened up which shocked P.W-2 resulting in P.W-2 sharing the message with P.W-3, P.W-6 and P.W-11. Therefore, they gathered and courage and went to the house of the Accused to question when there were threatened and they had sought the help of the elders in the Village. They did not come for amicable settlement which forced the family of the victim to seek legal remedy. Accordingly, the



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case was registered. Therefore, the delay in lodging the Complaint is narrated in evidence of P.W-1 to P.W-3. The submission of the learned Counsel for the Appellant that the evidence of the Prosecution witnesses are not sterling quality. The Prosecution had not established the case against the Accused does not warrant any interference. As rightly pointed out by the learned additional public prosecutor, the victim is a helpless girl aged 15 on the date of occurrence, she is incompetent to give consent, the consent is immaterial when the age of the prosecutrix is less than 18, she had not cross the age of majority.

31. As per the Radiological Report by P.W-9 under Ex.P-7, the victim is aged between 17 and 18 that is the range approximate for which the court are mandate to consider +/-2 from the radiological report considering the nature of the individual and the disparity from individual to individual regarding nutrition and healthy status and genetics. Therefore, it is not a strict proof of age. In cases of attracting Protection of Children from Sexual Offences Act, 2012, it is a mandate that the Investigation Officer has to collect the best evidence regarding the age of the victim. Here, the birth certificate of the victim was placed before the Investigation Officer by the relatives particularly P.W-11 who happened to be cousin of the victim. His evidence is found cogent. The objection for Ex.P-10 raised by the learned Counsel for the Accused is inadmissible, is rejected by the learned Judge on the ground that if



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it is so, the Accused is within his right to summon the necessary document from the authorities concerned at Pondicherry since he had not done so, the Court has to necessarily draw adverse inference. On perusal of Ex.P-10, the name of the parents of the victim is clearly stated. Therefore, it is a genuine birth certificate. Until otherwise, it is challenged. It has to be accepted. The victim had clearly in her evidence stated that her year of birth is 1998, the first occurrence is on some time in the year 2013. Therefore, by the year 2013, she was only 15 years old, she had not attained the age of majority. On the date of such occurrence, the Accused is twiced her age 30 years. If the Accused is age somewhere between 14 and 18, it can be considered as a teenage love affair. It is not so. He is an adult under any circumstances, he was aware of the consequences, he had taken it likely that the child of that age, the child who had dropped out after 5th standard from the School because of the death of her mother and her father mental condition. Considering father's sister being a daily wage earner eking out her livelihood as a farm labourer she was unable to help the child to attend the School. She had been taking care of child. These social economic condition was exploited by the Accused to the hilt for his selfish sexual pleasure under the pretext of love affair. After having the first encounter, he had used a first encounter as a blackmail for his sexual pleasures as and when he demands, she has to comply his demand. She is working under



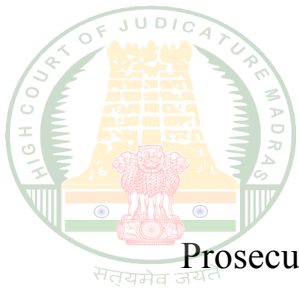
the aunt in the farm of the Accused. Therefore, she was sexually exploited for 6 months prior to date of lodging complaint under Ex.P-2. After registration of FIR under Ex.P-11 investigation proceeded by which time, she had 15 years. By the time, she was before the Court, she had attained the age of 17 approximately. There is no conflict between Ex.P-7 and Ex.P-10. As per the reported ruling *Jaya Mala Vs. Home Secretary, Government of Jammu & Kashmir and Others* reported in (1982) 2 SCC 538 there is variation from individual to individual regarding Radiological report and the aged determine on the Radiological Report based on the nutrition of the individual and life style, genetics of individual. Therefore, plus or minus 2 years if apply, she is 15 on the lower side, 17 on the higher side, as per Doctor evidence. Therefore, she is a teenager. She had not completed the age of majority. The delay in lodging FIR will not cause harm to the case of Prosecution as per the reported ruling of the Hon'ble Supreme Court. In cases of sexual assault, the victim's family is slow to approach the police due to so many factors one among the social stigma. Therefore, the explanation offered by victim and her family P.W-2, P.W-3, P.W-6 and P.W-11 is found justified. The claim of the Appellant/Accused that the witnesses are not of sterling quality, the Prosecution had not established the charge against the Accused through the Prosecution witnesses, the evidence of Doctor/P.W-7 and the report under



Ex.P-5 regarding sexual assault as per the reported rulings will not hold good.

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As pointed out by the learned Additional Public Prosecutor as well as the learned Judge in the discussion of evidence rejecting the Doctor's evidence based on the ruling reported in **(2013) 14 SCC 643 in the case of Lillu alias Rajesh and another Vs. State of Haryana** is on a different context. The Hon'ble Supreme Court deprecated the practice of finger test adopted by the Doctor in cases of sexual assault citing the privacy of individual victim regarding whether the Doctor had obtained permission from the individuals concerned to conduct such test. It is the ruling of the Hon'ble Supreme Court that even if it is found affirmative that the child or the prosecutrix was subjected to sexual intercourse, it cannot be exploited as meaning that the victim is prone to sexual intercourse. That cannot help the case before the court. Herein, in the said reported ruling of the Hon'ble Supreme Court, the Hon'ble Supreme Court had dismissed the Appeal in the course of the discussion, they had commented upon the test that is all that the Appeal was dismissed. Here also, it is the case, the learned trial Judge had rejected the ruling cited by the learned Counsel for the Accused claiming that the Doctor witnesses had to be rejected based on the said ruling. That was rejected. The evidence of P.W-1 to P.W-3, P.W-6 and P.W-11 are relatives. The Mahazar witnesses P.W-4 and P.W-5 remained hostile. It does not affect the case of the

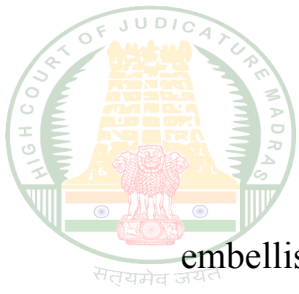


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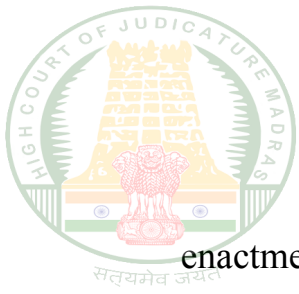
32. As rightly pointed out by the learned Additional Public Prosecutor in the reported ruling in ***Ganesan vs. State of Tamil Nadu reported in (2020) 10 SCC 573*** when the evidence of the victim alone inspires confidence of the Court, the Court is within its powers to convict the Accused.

33. As per the reported ruling of the Hon'ble Supreme Court in ***Vadivelu Thevar's case***, the Judgment of the Hon'ble Supreme court early 50's it is not the quantity of the witnesses number of witnesses examined, it is a quality of witnesses weighed by the Court. Here, the victim had narrated the incident cogently in her deposition before the Court. In the cross-examination, she admits that she had not stated the facts in detail to the Investigation Officer. It is true that the Investigation Officer had in the cross-examination as P.W-12 admitted that the victim had not spoken about the subsequent instances indulged by the Accused exploiting the victim. That will not help the Accused in this case. The trial is conducted before a Court to find out whether the case mentioned in the charge sheet filed by the Police is true. What is adduced before the trial court by the victim is evidence and it need not be rejected on the ground that the victim or witnesses had improvised their statement given before the police at the earliest point of time. The claim that the delayed FIR is



embellished also will not help cases under the Protection of Children from Sexual Offences Act, 2012. The objection of Ex.P-10 by the Accused before the trial Court is also on the ground that if Ex.P-10 is admitted, the entire case will be strengthened against the Accused. If the objection of the Accused was bona fide, the Accused should have summoned the authorities from the Pondicherry State regarding the birth extract of the victim. Since they had not done so, the reverse burden has to be invoked against the Accused regarding Ex.P-10 and that was rightly done by the learned Judge.

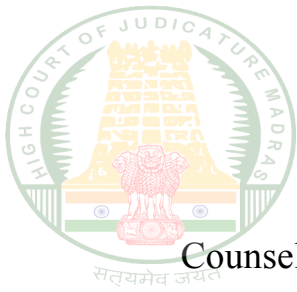
34. The arguments of the learned Counsel for the Appellant in attacking the conduct of the learned trial Judge invoking Section 29 of the Protection of Children from Sexual Offences Act, 2012 under presumption against the Accused and the judgment in its entirety centered around Section 29 of the Protection of Children from Sexual Offences Act, 2012 will not hold good. When the facts and circumstances of the case had been proved before the trial Court that the victim aged 15 years was exploited by the Accused aged 30 years a full adult. The provision of the Protection of Children from Sexual Offences Act, 2012 is specially enacted to deal with persons who are similar to the Accused herein. Until the enactment of this Act, the sexual abuse of the children was unchecked. The law could not punish the violators of law particularly regarding sexual abuse of children. Therefore, it is a special



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enactment to curtail the criminal activities of adults in exploiting children and also to protect the children. The intention of the parliament in enacting such Special Act to protect the children of this country is squarely applicable to the individuals like Accused before this Court. On appreciation of evidence individually independently by this Court as Appellate Court except the demeanour of the witnesses through the records, it is found that the evidence of deposition of Prosecution witnesses/P.W-1 to P.W-3, P.W-6 and P.W-11 is found cogent. P.W-7 to P.W-9/Doctors' evidence supports and corroborates the allegations levelled against the Accused by the victim. Therefore, the Prosecution had established the case against the Accused in proving the charges framed against the Accused by the learned Sessions Judge. The submission of the learned Counsel for the Accused, the charge had not been proved. Merely on Section 29 of the Protection of Children from Sexual Offences Act, 2012 under presumption, the learned Judge had appreciated the evidence and convicted the Accused does not hold good in the facts and circumstances of the case.

35. The above rulings cited by the learned Counsel for the Appellant will not help the Accused. As rightly pointed out by the learned Additional public prosecutor, the ruling cited by the Accused only the discussion or arguments putforth by the learned Counsel had been relied by the learned



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Counsel for the Appellant. In all the reported decisions, the Appeals had been dismissed by the Hon'ble Supreme Court. Therefore, the submission of the learned Counsel for the Appellant is rejected. As rightly pointed out by the learned additional public prosecutor, the Court has to give importance to the evidence of the victim under Section 29 of the Protection of Children from Sexual Offences Act, 2012 if the age of the victim is less than 18 as proved by the Prosecution. Here, the age of the victim is 15 on the date of occurrence. Half of the age of the Accused. The Accused is full grown adult. He is aware of the consequences. Still, he had exploited the socio-economic background of the innocent helpless ignorant child of 15 years. Therefore, the conviction recorded by the learned Sessions Judge, Fast Track Mahila Court, Cuddalore in Spl.S.C.No. of 2013 is found proper and it is not perverse and the same is confirmed.

36. In the light of the above discussions, the point for consideration is answered in favour of the Prosecution and against the Appellant. The Judgment passed by the learned learned Sessions Judge, Fast Track Mahila Court, Cuddalore in Spl.S.C.No.5 of 2014 dated 24.07.2015 is not perverse.

In the result, this ***Criminal Appeal is dismissed.*** The Judgment passed by the learned learned Sessions Judge, Fast Track Mahila Court, Cuddalore in



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Spl.S.C.No.5 of 2014 dated 24.07.2015 is confirmed.

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The learned Sessions Judge, Fast Track Mahila Court, Cuddalore, is directed to issue warrant to the Accused through The Inspector of Police, All Women Police Station, Panruti. The Inspector of Police, All Women Police Station, Panruti, is directed to secure the Accused and produce him before the the learned Sessions Judge, Fast Track Mahila Court, Cudallore, to undergo the remaining period of sentence in continuation of the Judgment of conviction recorded by the learned Sessions Judge, Fast Track Mahila Court, Cudallore, as per the judgment dated 24.07.2015 in Spl.S.C.No.5 of 2014.

The Superintendent of Police, Cuddalore District, is also directed to secure the Accused through Special Team and report compliance to the High Court.

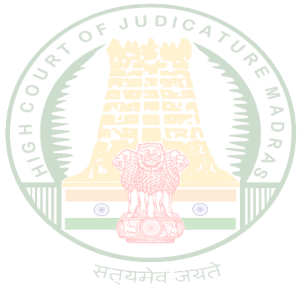
03.03.2025

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Index: Yes/No

Internet: Yes/No

Speaking Order/Non-speaking Order

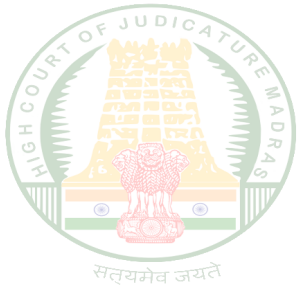


Crl.A. No.547 of 2016

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To

- 1.The Sessions Judge,
Mahila Court, Cuddalore.
- 2.The Inspector of Police,
All Women Police Station,
Panruti, Cuddalore.
- 3.The Superintendent of Police,
Cuddalore District.
- 4.The Superintendent,
Central Prison,
Cuddalore.
5. The Public Prosecutor,
High Court, Madras.



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Crl.A. No.547 of 2016

SATHI KUMAR SUKUMARA KURUP, J

dh

Judgment made in
Criminal Appeal No.547 of 2016

03.03.2025