



CrI.A.No.1623 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2025

CORAM:

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

CrI.A.No.1623 of 2023
and CrI.M.P.No.19837 of 2023

Ravi

... Appellant

Vs.

The State rep. by
The Inspector of Police,
W-22, All Women Police Station,
Mylapore,
Chennai – 600 004.

... Respondent

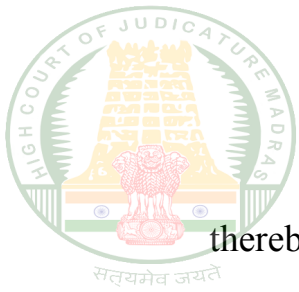
PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C., to call for the records and the judgment dated 30.11.2021 in S.C.No.26 of 2019 passed by the learned Sessions Judge, Special Judge under the POCSO Act, Chennai and set aside the same.

For Appellant : Mr.W.M.Abdul Azeez

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor

JUDGMENT

This Criminal Appeal has been filed as against the judgment dated 30.11.2021 passed by the learned Sessions Judge, Special Judge under the POCSO Act, Chennai, made in Special S.C.No.26 of 2019,



Crl.A.No.1623 of 2023

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thereby convicted the appellant for the offences punishable under Section 506(ii) of IPC and Sections 10 & 12 of the Protection of Children from Sexual Offences Act (hereinafter referred to as “POCSO Act”).

2. The case of the prosecution was that on 14.11.2018 at about 7.30 p.m., when the victim girl went to see her friend, the accused closed her mouth with cloth and also dragged her into his house, by pulling her hands. Thereafter, he locked the door and showed pornographic videos to the victim girl and removed her dress with intention to cause sexual assault on her. Immediately the door was knocked and the victim girl ran away from the room of the accused. On the complaint, the FIR in Crime No.07 of 2018 was registered for the offences punishable under Sections 10 & 12 of the POCSO Act. After completion of investigation, the respondent filed final report and the same was taken cognizance by the trial Court in S.C.No.26 of 2019 for the offences punishable under Section 506(ii) of IPC and Sections 10 & 12 of the POCSO Act, as against the appellant.

3. In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.11 and marked documents in Ex.P.1 to Ex.P.15.



Crl.A.No.1623 of 2023

The prosecution had also produced one material object in M.O.1. On the side of the appellant, no one was examined and no documents were marked. On perusal of the oral and documentary evidences, the trial Court found the appellant guilty for the offences punishable under Section 506(ii) of IPC and Sections 10 & 12 of the POCSO Act and sentenced him as follows :-

S.No.	Conviction	Sentence
1	Section 10 of POCSO Act.	to undergo imprisonment for a period of seven years and to pay fine of Rs.10,000/-, in default, to undergo simple imprisonment for three months.
2	Section 12 of POCSO Act.	to undergo rigorous imprisonment for a period of three years and to pay fine of Rs.5,000/-, in default, to undergo simple imprisonment for one month.
3	Section 506(ii) of IPC	to undergo imprisonment for a period of five years.

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

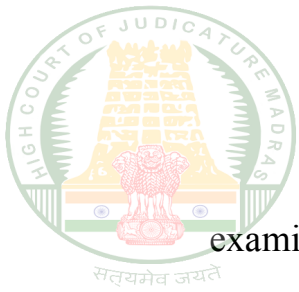
4. The learned counsel appearing for the appellant submitted that the appellant is in incarceration for nearly four years now. Though the specific case of the prosecution was that the appellant had shown pornographic video in his mobile phone, the prosecution failed to prove



Crl.A.No.1623 of 2023

that the appellant had shown pornographic video to the victim girl. Even according to the prosecution, the door was knocked and immediately the victim ran away from the room. There was no act committed by the appellant. Further in order to prove the charge for the offence under Section 506(ii) of IPC, there was no material to prove the same. Even then, the trial Court mechanically convicted the appellant and hence he prayed to allow this appeal.

5. Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that the victim was examined as P.W.1. She categorically deposed that on the date of alleged occurrence, she was taken by the appellant by closing her mouth. Thereafter, she was shown pornographic video and when the door was knocked, she ran away from the appellant's room. In fact, the door was knocked by her mother and another. The another witness was examined as P.W.2. He had seen the appellant taking the victim girl by shutting her mouth with a cloth and dragging her into his room. He had first thought that the appellant was doing it in a playful way. On suspicion, he had seen through the window and immediately knocked the door and opened the door. Immediately, the victim girl ran away from the room. The mother of the victim was



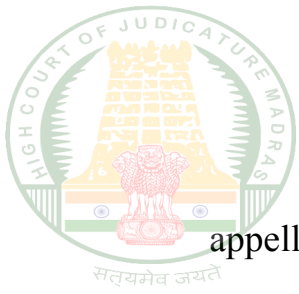
Crl.A.No.1623 of 2023

examined as P.W.3. She also categorically deposed about the incident.

Therefore, the prosecution proved the charges and the trial Court rightly convicted the appellant and it doesn't warrant any interference of this Court.

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

7. The victim girl was examined as P.W.1. Another two witnesses were examined as P.W.2 and P.W.3. P.W.1 to P.W.3 categorically deposed and corroborated each other. Further they deposed that the appellant had show pornographic videos from his mobile phone. The victim girl was dragged into the appellant's house by closing her mouth with a cloth. He locked the door and removed her dress. The victim girl was aged about 11 years at the time of alleged occurrence. Immediately, P.W.2 & P.W.3 followed her and knocked the door. It was not opened and therefore, they opened the door by force. Immediately, the victim ran away from the room after getting dressed. Thereafter, the appellant was beaten by them. He had taken treatment before P.W.5 and wound certificate was marked as Ex.P.6 and the injuries sustained by the



appellant was declared as simple in nature.

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8. After registration of the FIR, the victim girl was subjected for medical examination by P.W.7 and P.W.7 referred the victim girl to P.W.8. On examination of the victim girl, P.W.8 found no injury on her entire body and her hymen was also intact. The victim girl had not attained puberty at that time. Therefore, the victim girl was taken by the appellant in to his room. He also removed her pant and he had show pornographic videos in his mobile phone.

9. Further, the trial Court concluded that the material object M.O.1 was seized from the appellant in the police station. However, according to the case of the prosecution, the seizure of M.O.1 at the place of arrest, but his confession statement was recorded in the police station. Therefore, recovery of M.O.1 is hit by Section 27 of the Indian Evidence Act. According to the laboratory report, the cell phone contained pornographic videos. However, the prosecution did not not prove that the content allegedly to be seized was from the appellant. Therefore, the report of the forensic laboratory did not serve any purpose to the case of the prosecution. Therefore, the prosecution failed to prove that the victim



Crl.A.No.1623 of 2023

girl was shown pornographic video. Hence, the prosecution failed to prove the charges under Section 10 & 12 of the POCSO Act. On the other hand, the act committed by the appellant would attract Sections 7 & 8 of the POCSO Act.

10. Insofar as Section 506(ii) of IPC is concerned, P.W.1 to P.W.3 did not even depose that the appellant threatened the victim girl with dire consequences. According to them, the victim girl was dragged by the appellant to his house by closing her mouth with a cloth. Immediately, they knocked and opened the door. Immediately, the victim girl ran away from the room. Therefore, there is absolutely no evidence to show that the appellant threatened the victim girl with dire consequences. Therefore, the offence under Section 506(ii) of IPC is not at all made out as against the appellant and the conviction under Section 506(ii) of IPC cannot be sustained.

11. In view of the above discussions, the conviction and sentence imposed on the appellant in the judgment dated 30.11.2021 passed by the learned Sessions Judge, Special Judge under the POCSO Act, Chennai, in S.C.No.26 of 2019, is set aside insofar as the offences



Crl.A.No.1623 of 2023

punishable under Section 506(ii) of IPC and Sections 10 & 12 of the Protection of Children from Sexual Offences Act. However, the appellant is convicted for the offences punishable under Sections 7 & 8 of the POCSO Act and is sentenced to undergo imprisonment for the period already undergone by him. The appellant is acquitted from the charges punishable under Section 506(ii) of IPC and Sections 10 & 12 of the Protection of Children from Sexual Offences Act.

12. Accordingly, the Criminal Appeal stands partly allowed. Consequently, connected miscellaneous petition is closed.

08.08.2025
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Crl.A.No.1623 of 2023

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1.The Sessions Judge,
Special Judge under the POCSO Act,
Chennai.

2.The Inspector of Police,
W-22, All Women Police Station,
Mylapore,
Chennai – 600 004.

3.The Public Prosecutor,
High Court, Madras.



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Crl.A.No.1623 of 2023

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Crl.A.No.1623 of 2023
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