



Crl.A.No.501 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2025

CORAM:

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

Crl.A.No.501 of 2023
and Crl.M.P.No.13311 of 2025

Helilanraj

... Appellant

Vs.

The State rep. by
The Inspector of Police,
All Women Police Station,
Ariyalur,
Ariyalur District.
Crime No.11 of 2022

... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C., to call for the records and set aside the judgment dated 02.03.2023 in Spl.S.C.No.53 of 2022 on the file of the learned Sessions Judge – Fast Track Mahila Court at Ariyalur against the appellant and this appeal filed by the appellant and acquit the appellant from the above case.

For Appellant : Mr.R.Subramaniyan

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor



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JUDGMENT

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2.The case of the prosecution is that on a complaint dated 01.03.2022 at about 12.00 p.m. lodged by the mother of the victim alleging that they went to 100 days work in the month of February 2021, the accused went into the house of the victim and committed aggravated penetrative sexual assault on the minor victim girl. On receipt of the said complaint the respondent has registered First Information Report in Cr.No.11 of 2022 for the offence punishable under Section 5 (m), 6, 9 (l), 9 (m) and Section 10 of POCSO Act.

3.After completion of investigation the respondent filed final report and the same has been taken cognizance by the trial Court. In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.12 and exhibits Ex.P1 to Ex.P12 were marked. The court also



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marked document as Ex.X1. On the side of the accused, he had examined as D.W.1 and marked exhibits Ex.D1 and Ex.D2 and perusal of oral and documentary evidence, the trial Court found the appellant guilty for the offence punishable under Section 6 (1) of the POCSO Act and 451, 376 A B of I.P.C. He was sentenced to undergo 20 years of rigorous imprisonment for the offence punishable under Section 6 (i) of the POCSO Act and he was also sentenced to undergo 2 years of rigorous imprisonment for the offence punishable under Section 451 of I.P.C. and aggrieved by the same he preferred the appeal.

4.The learned counsel for the appellant would submit that there was a huge delay of one year and one month to lodge complaint. However, the prosecution failed to come with valid reason for the huge delay in lodgement of complaint. Even the mother of the victim was examined as P.W.3. She is deposed that she did not know about the alleged occurrence taken place. Even according to the P.W.3 the appellant committed bad touch on the minor victim girl. Further, the friend of P.W.1 was examined as P.W.2. She is only coercive evidence. She also deposed that there was only bad touch by the appellant on the victim girl. After registration of First Information Report, the victim girl



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was subjected for medical examination. The Doctor who examined the victim girl deposed that there was no injury on any part of the victim girl's body. In order to take vengeance as against the appellant and also in order to escape from the clutches of law in Cr.No.52 of 2022 registered for the offence punishable under Section 294 (b) and 323 of I.P.C., and Section 4 of the Tamil Nadu Prohibition of Women Harassment Act as against the parents of the victim girl and another. In support of those documents the Sub Inspector of Police received the complaint and was examined as D.W.1. Therefore, the prosecution failed to prove any charges as against the appellant and even then the trial Court mechanically convicted the appellant.

5.Per contra, the learned Additional Public Prosecutor submitted that the victim girl was examined as P.W.1. She categorically deposed that on the date of occurrence the appellant had committed aggravated penetrative sexual assault on the victim. Though there was a delay it is not significant in the context of sexual offences. In fact after the occurrence, the appellant threatened the victim girl with dire consequences as such she did not disclose the same to anybody. The Doctor who examined the victim girl had deposed as P.W.8. She also



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recorded the statement of the victim that she was subjected for sexual assault by the appellant. In order to prove the age of the victim, the Head Master of the School was examined as P.W.10. The certificate for the age was marked as Ex.P8. Therefore, the prosecution proved all the charges and trial Court rightly convicted the appellant. Hence, it does not required any interference by this Court.

6.Heard the learned counsels on either side and perused the records.

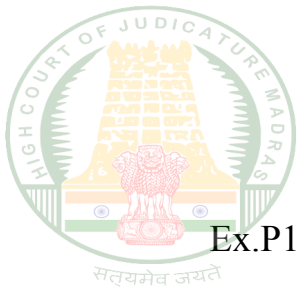
7.The mother of the victim was examined as P.W.3. She lodged complaint which was marked as Ex.P1. On perusal of the Ex.P1 revealed that though the alleged occurrence took place in the month of February 2021, when they went to 100 days work at about 12 noon when the victim girl was watching TV along with her brother, the appellant went into the house and committed penetrative sexual assault on the victim. Thereafter, in the month of April 2021, the victim girl felt some stomach pain. It was questioned by P.W.3. Thereafter, the victim discloses about the said occurrence. Even, thereafter, the appellant used to give torture to the victim girl while she was going to school. On 01.03.2022 at about 1.30



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p.m. while the victim girl was coming to home to have lunch, the appellant quarreled with the victim girl. When it was questioned by the victim's father he was also threatened with dire consequences.

8. On receipt of the said complaint the respondent registered the First Information Report on 01.03.2022 in Cr.No.11 of 2022 at about 1.30 p.m. Therefore, it does not reveal the date of alleged occurrence. Even according to the P.W.3, the said occurrence was disclosed by the victim in the month of April 2021. However, there was no complaint from P.W.3. At the same time, on very same day that is on 01.03.2022, there was a quarrel between the appellant's family and the victim's family. The parents of the victim attacked the appellant's wife, father, mother and his grand mother with a wooden log. Therefore, they sustained grievous injuries and they were admitted in the Government Hospital, Ariyalur, as in-patients. Therefore, the complaint was lodged and the same has been registered in Cr.No.52 of 2022 for the offence punishable under Section 294 (b), 323 of I.P.C. and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. In the said First Information Report, P.W.3 is arrayed as third accused and her husband is arrayed as first accused. Immediately after registration of First Information Report, the P.W.3 lodged the complaint in the present case which was marked as



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Ex.P1. On the same day, the respondent registered the First Information Report.

9. There was absolutely no explanation for the delay of one year and one month in lodgement of complaint. Further the victim was examined as P.W.1. On perusal of her deposition, one day while she was watching TV, the appellant came into her house and committed sexual assault on her. Her brother was also very much present in the house. However, the prosecution failed to examine her brother corroborating the evidence of P.W.1. Though the victim's evidence is the best evidence due to the above said circumstances, the victim was tutored by P.W.3 and deposed before the Court. In fact after the occurrence no statement was recorded under Section 164 Cr.P.C. from the victim girl. In fact, it was said that the alleged occurrence was informed to her friend and she was examined as P.W.2. P.W.2 categorically deposed that there was bad touch by the appellant and the same was informed to her by the victim girl. Therefore, P.W.2 is an eye witness. She also did not support the case of the prosecution. The Doctor who examined the victim girl deposed that there is no injury on the victim's entire body and she was not subjected to



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any sexual assault. Therefore, the prosecution miserably failed to prove

any of the charges as against the appellant.

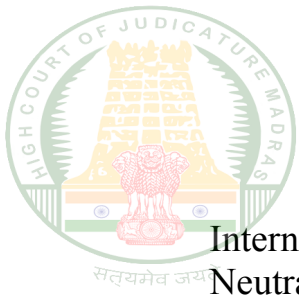
10.On perusal of the entire material records revealed that false complaint has been foisted as against the appellant to escape from the clutches of law in Cr.No.52 of 2022 registered for the offence punishable under Section 294 (b), 323 of I.P.C. and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. It is a classical case for misusing the offence under the POCSO Act. Even then without considering the above facts and circumstances, the trial Court mechanically convicted the appellant.

11.In view of the above, the order dated 02.03.2023 in Spl.S.C.No.53 of 2022 passed by the learned Sessions Judge – Fast Track Mahila Court at Ariyalur is set aside. Accordingly, the Criminal Appeal is allowed. Consequently, connected miscellaneous petition is closed.

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Speaking/Non-speaking order

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Internet: Yes

Neutral Citation: Yes/No

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To

1.The Sessions Judge,
Fast Track Mahila Court,
Ariyalur.

2.The Inspector of Police,
All Women Police Station,
Ariyalur,
Ariyalur District.

3.The Superintendent,
Central Prison,
Trichy.

4.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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