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CRL A No. 463 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-12-2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CRL A No. 463 of 2023

Anantha Reddy
S/o. Rama Reddy, B-Kothapalli Village,
Devakanapalli Post, Denkanikottai
Taluk, Krishnagiri District.

Appellant(s)

Vs

State by
The Inspector of Police,
All Women Police Station,
Denkanikottai, Krishnagiri District.
(Crime No.12/2019)

Respondent(s)

PRAYER

This Criminal Appeal has been filed under Section 374(2) of the Criminal Procedure Code, to call for the entire records in connection with the Spl.S.C.No.24/2019 on the file of the Learned Sessions Judge, Fast Track Magalir Neethimandram, Krishnagiri, Krishnagiri District and set aside the Judgment dated 27.03.2023.

For Appellant(s): Mr. E.Kannadasan

For Respondent(s): Mr.S.Raja Kumar
Additional Public Prosecutor

ORDER

The appeal challenges the conviction and sentence imposed on the appellant for the offences under Section 9 r/w 10 of the POCSO Act and Section 506(i) of IPC.



2(i) The prosecution case is that the victim and her parents were residing at Bangalore; that they had come to their native village at Krishnagiri District for casting their votes in the General Elections; that after the victims parents casted their votes, they left for Bangalore leaving the victim in the custody of the grandparents of the victim; that the appellant was the neighbour; that on 05.05.2019 about about 11.00 a.m., the appellant called the victim to his house, locked the door from inside and thereafter, inappropriately touched her breast and private parts; that when the victim shouted for help, PW5, the daughter of the appellant came and thereafter, the victim left the house and that the appellant threatened the victim that if she disclosed the incident to any person, she would be done to death.

(ii) PW1, the mother of the victim had lodged the complaint on 25.05.2019, which was registered as Crime No.12 of 2019 under Section 7, 8, 9 and 10 of the POCSO Act and Section 506 (i) of the IPC. PW18, the Inspector of Police registered the FIR and investigation was conducted by PW19, the Inspector of Police. PW19, examined the witnesses and made arrangements to subject the victim to medical examination and after conclusion of the investigation, had filed the final report for the offences under Section 9 r/w 10 of the POCSO Act before the Fast Track Mahila Court, Krishnagiri. The trial Court framed charges against the accused under Section 9 r/w 10 and Section 506 (i) of IPC, and when questioned, the appellant pleaded 'not guilty.



(iii) To prove the case, the prosecution examined 19 witnesses as P.W.1 to P.W.19, marked 17 exhibits as Exs.P1 to P17. When the appellant was questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against him, he denied the same. On the side of the defence, one witness was examined as D.W.1, and one document was marked as Ex.D1.

(iv) On appreciation of oral and documentary evidence, the Trial Court found that the prosecution had established the case beyond reasonable doubt, and held the accused guilty of the offences under Sections 9 r/w 10 of the POCSO Act and Section 506(i) of the IPC. The Trial Court sentenced him to undergo five years rigorous imprisonment and to pay a fine of Rs.5000/- in default to undergo simple imprisonment for one year for the offence under Section 9 r/w 10 of POCSO Act 2012 and also sentenced him to undergo two years rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo three months rigorous imprisonment for the offence under Section 506(i) of IPC and the sentences were ordered to run concurrently. Hence, the accused/appellant has preferred the appeal challenging the said conviction and sentence.

3.Heard Mr.E.Kannadasan, the learned counsel appearing for the appellant/accused, and Mr.S.Raja Kumar, learned Additional Public Prosecutor



appearing for the respondent/State. This Court also perused all the materials available on record.

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4(i) Mr.E.Kannadasan, the learned counsel for the appellant would submit that the impugned prosecution is attended with malafides; that the victim and other relatives cannot be believed; that the appellant was attacked by PW1 due to a dispute with regard to damage of crops of PW1 and PW3; that anticipating a complaint against them, they have lodged the FIR, which culminated in the impugned proceedings and that there are several contradictions in their evidence, which would not justify the finding of guilt of the appellant.

(ii) The learned counsel would also point out that the parents of the victim were not willing for medical examination; that it is the version of the grandparents of the victim that they had informed about the alleged occurrence to the parents of the victim as early as on 05.05.2019, however, the complaint was lodged belatedly and therefore, the witnesses cannot be believed and sought for acquittal.

5.The learned Public Prosecutor, *per contra*, submitted that though there is a delay in the lodging of the complaint, the evidence of the victim girl has been consistent at all stages and there is no reason to disbelieve the evidence of the victim girl and would submit that the trial Court had appreciated the



evidence of the victim girl and other witnesses in the proper perspective and there is no infirmity in the impugned Judgment warranting interference.

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6.I have carefully considered the rival submissions and perused the materials on record.

7.As stated earlier, the prosecution examined 19 witnesses. PW1 is the mother of the victim and the defacto complainant. PW2 is the victim. PW3 is the father of the victim. PW4, is the cousin brother of the appellant. PW5 is the daughter of the appellant who turned hostile. PW6 is the grandfather of the victim girl and father of PW3. PW7 and PW8 are the witnesses who has attested the confession of the accused. PW9 is the panchayat head who mediated the dispute between the defacto complainant and the appellant. PW10 and PW11 also speak about the panchayat held. PW12 is the observation mahazar witness who turned hostile. PW13 is the observation mahazar witness who had signed in Ext.P8 as a witness; PW14 is the Constable who had assisted the investigation. PW15 is the Doctor who had recorded in the accident register that the victims parents were not willing to subject the victim for medical examination. The accident register was marked as Ext.P9. PW16 confirms the fact that the victim's parents refused to subject the victim for medical examination, PW17 is the Constable who accompanied the victim to the Doctor. PW18 is the Inspector of Police who had registered the FIR and conducted the investigation partly.



PW19 is the Investigating Officer, who had filed the final report.

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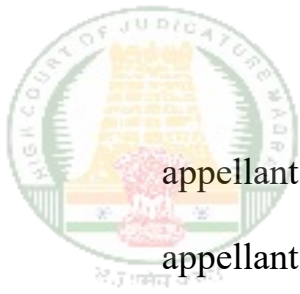
8. The case rests on the evidence of the victim PW2. PW5, who is said to have seen the victim in the room along with the appellant had turned hostile. Admittedly, the victim is said to have complained about the incident to her grandmother on the same day and the prosecution, for the reasons best known, have not examined the victim's grandmother. All other witnesses are hearsay witnesses. Though PW9, PW10 and PW11 speak about a Panchayat that was allegedly held to mediate the dispute, they had not stated as to on what date the alleged panchayat was held. It is the case of PW6, the grandfather of the victim that after the victim had informed about the accident, he and his wife decided not to precipitate the issue and therefore, did not give a complaint. There is no explanation by the prosecution, as to when the village heads were informed about the alleged incident and what is the nature of the mediation they attempted.

9. Be that as it may, PW1, the mother of the victim would state in her evidence that she came to know of the occurrence for the first time when the victim returned to Bangalore on 16.05.2019. Thereafter, all of them returned to the native place and decided to give a complaint. In the cross-examination, she would state that she had lodged a complaint on 18.05.2019. Firstly, her version that she came to know of the occurrence on 16.05.2019 is falsified by the



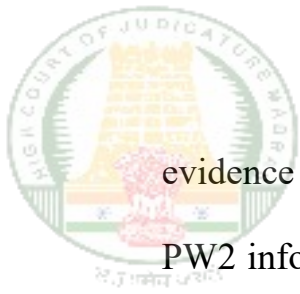
evidence of PW6, who would state that he had informed his son PW3 and his daughter-in-law PW1 about the occurrence on the same day evening by phone ie., on 05.05.2019. PW2, the victim herself had stated in the cross-examination that even before she went to Bangalore, she had informed PW1 about the occurrence over phone. Therefore, the version of PW1 explaining the delay in lodging the complaint is falsified by the evidence of PW2, the victim and PW6, the grandfather of the victim. PW18, the Inspector of Police would state that she had received the complaint on 25.05.2019. PW19, the the investigating officer would also confirm that the complaint was lodged only on 25.05.2019. Therefore, the version of PW1 that, she had laid the complaint on 18.05.2019 is also falsified by the above evidence of PW19. Therefore, this Court is of the view that PW1's explanation for the delay cannot be accepted. There is no reason why, PW1, had refused medical examination for the victim.

10.Be that as it may, it is the specific case of the defence that PW3 had permitted the appellant to use the pathway behind his house for taking the construction materials for the purpose of construction of a building by the appellant. PW3 would also confirm that the appellant was permitted to use the land for the said purpose. Thereafter, the appellant as well as PW3 had a dispute and a physical altercation took place on 18.05.2019, since the appellant had damaged the crops of PW3 while taking the construction materials through PW3's land. The appellant had examined DW1, the Doctor who had treated the



appellant at the Hosur Government Hospital. The Doctor had testified that the appellant had sustained two injuries, one on the hip and other on the forehead and had issued Ext.D1, accident register. She had also stated that she had informed the Police about the incident, since it was a medico-legal case. The investigating officer, PW19 would admit that PW1 had stated during her cross-examination that she had beaten the accused on 18.05.2019. The investigating officer, however, would state that he was not aware of any complaint lodged by the appellant, as the occurrence took place in a different jurisdiction. The above evidence of the investigating officer probablises the defence case, that there was a physical altercation on 18.05.2019 and the appellant was attacked by PW1. The above evidence also suggests that the defence case that the complaint in the instant case was lodged as an after thought anticipating a complaint against PW1 is probable.

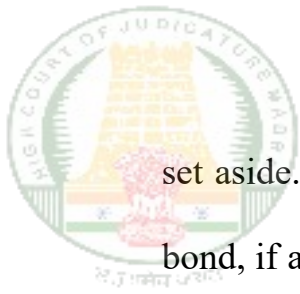
11.It is in the light of the above evidence we have to examine the evidence of the victim PW2. It is not in dispute that the victim had stated before the Magistrate and in the Court that the appellant touched her inappropriately. The victim herself would admit that her parents refused to subject her to medical examination. Also, PW2 in her chief examination, would state that she had not informed about the occurrence to her grandparents till she met her parents after the holidays at Bangalore. She would also state that she did not remember the date on which she informed the parents about the incident. The



evidence of PW2, in this regard, is falsified as it is the version of PW6, that PW2 informed about the occurrence on the very same day. In fact, in her cross-examination, it has been elicited that certain facts that were not disclosed by her during police investigation were testified by her in her deposition in chief. There are several improvements in her version.

12. The reason for the delay in the complaint has not been properly explained. There are contrary versions in this regard. Therefore, this Court is of the view that it will be highly unsafe to convict the appellant for the aforesaid serious offences on the doubtful testimony of PW2, who was hardly 10 years old at the time of the occurrence. The evidence of PW2 and the surrounding circumstances raises a substantial doubt that her version has been tutored. Therefore, this Court is inclined to set aside the judgment of conviction and sentence passed in Spl.S.C.No.24 of 2019 dated 27.03.2023 on the file of learned Sessions Judge, Fast Track Magalir Neethimandram, Krishnagiri, Krishnagiri District.

13. In the result, this Criminal Appeal is allowed, and the appellant is acquitted of the charges under Section 9 r/w 10 of the POCSO Act and Section 506(i) of the Indian Penal Code. The conviction and sentence passed in Spl.S.C.No.24 of 2019 on the file of the learned Sessions Judge, Fast Track Magalir Neethimandram, Krishnagiri, Krishnagiri District dated 27.03.2023 are



set aside. The fine amount, if any, paid by the appellant shall be refunded. Bail bond, if any, executed shall stand discharged.

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Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No

To

1. The Inspector of Police, All women
Police Station, Denkanikottai,
Krishnagiri District. Cr.No.12/2019.

2. The Sessions Judge, Fast Track
Magalir Neethimandram, Krishnagiri,
Krishnagiri District.

3. The Public Prosecutor
High Court of Madras,
Chennai – 600 104.



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SUNDER MOHAN J.
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