



Crl.A.No.62 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2025

CORAM :

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

Crl.A.No.62 of 2023

Kalaiyarasan

... Appellant

Vs

The State Rep by
The Inspector of Police,
All Women Police Station,
Barugur Police Station,
Krishnagiri District.
Crime No.2 of 2019.

... Respondent

Prayer: Criminal Appeal filed under Section 374 (2) of Criminal Procedure Code to set aside the conviction, sentence and fine awarded against the appellant in Special Sessions Case No.31 of 2019 dated 08.04.2022 on the file of the Sessions Judge, Fast Track Mahila Court, Krishnagiri and allow the appeal.

For Appellant : M/s.R.Saritha

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

JUDGMENT



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This Criminal Appeal has been filed as against the Judgement

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dated 08.04.2022 passed in Spl.S.C.No.31 of 2019 on the file of the Sessions Judge, Fast Track Court, Krishnagiri, thereby convicting the appellant for the offences punishable under Section Section 451 of I.P.C, Section 5(1) r/w Section 6 of POCSO Act, 2012 and under Section 9 of Prohibition of Child Marriage Act, 2006.

2. The case of the prosecution was that the minor girl was studying seventh standard aged about 16. On 20.08.2017, when the victim/minor girl was in her house, at about 4 p.m., the accused went into her house and he committed penetrative sexual assault on the victim girl. Thereafter, he assured that he will marry her. Once again under the pretext of marriage, he committed aggravated penetrative sexual assault on the victim girl. Subsequently, on 17.06.2018, 11.10.2017 & 22.12.2017, he had taken the victim girl to the KRP Dam, Krishnagiri and committed a penetrative sexual assault on her. In fact, he tied a thali on the victim and he committed penetrative sexual assault. Thereafter, he left her in lurch and married another girl.

3. Based on the complaint, the respondent registered FIR as



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against the accused in Crime No.2 of 2019 for the offences punishable under Section 451 of I.P.C, Section 5(1) r/w Section 6 of POCSO Act, 2012 and Section 9 of Prohibition of Child Marriage Act, 2006. After completion of investigation, the respondent filed a final report and the same was taken cognizance by the trial court. In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.17 and marked Ex.P1 to Ex.22. On the side of the accused, no one were examined and no documents were marked.

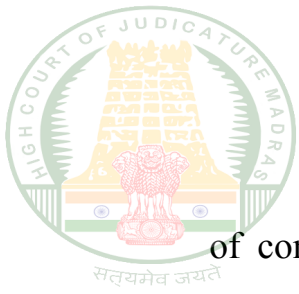
4. On perusal of the oral and documentary evidences, the trial court found the appellant guilty for the offences under Section 451 of I.P.C Section 5(1) r/w Section 6 of POCSO Act, 2012 and Section 9 of Prohibition of Child Marriage Act, 2006. The petitioner was convicted and sentenced to undergo one year of rigorous imprisonment and to pay a fine of Rs.1,000/- in default, to undergo three months of rigorous imprisonment under Section 451 of I.P.C and to undergo ten years of rigorous imprisonment and to pay a fine of Rs.1000/- in default, to undergo six months of rigorous imprisonment under Section 5(1) r/w Section 6 of POCSO Act, 2012 and to undergo one year of rigorous imprisonment and to pay a fine of Rs.2,500/- in default, to undergo six



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months of rigorous imprisonment under Section 9 of Prohibition of Child Marriage Act, 2006. Aggrieved by the same, the present Appeal has been filed.

5. Learned counsel appearing for the Appellant would submit that no offence was made out under Section 451 of I.P.C since the victim's grand mother is running a shop straight opposite to the house of the victim and as such there was absolutely no possibility to enter into the house of the victim to have physical relationship without her grandmother's knowledge. Further, the Doctor who examined the victim girl also opined that there was no injury on her vagina. Even according to the victim, the appellant married her in Kullanoor Murugan Temple on 17.06.2018 at Pochampalli and thereafter had physical relationship. In fact, she herself had removed thali and had gone to her house. Therefore, there is absolutely no proof to prove any offence under the provisions of Child Marriage Act. Further, the prosecution failed to prove the age of the victim with proper evidence. There was an enormous delay in lodgment of complaint. Allegedly, first occurrence had taken place in the month of August 2017 whereas the complaint was lodged only in the year 2018. Hence, there is absolutely no explanation for the huge delay in lodgment



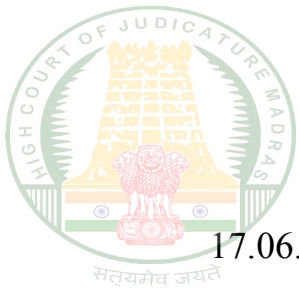
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of complaint. Therefore, the prosecution miserably failed to prove the charges. Even then, the trial court mechanically convicted the appellant.

6. Per Contra, learned Additional Public Prosecutor appearing for the respondent submitted that, there was a delay in lodgment of the complaint, because the accused had continuously committed aggravated penetrative sexual assault on the victim under the pretext of marriage. Further, in the case of sexual offences, the delay is immaterial and would not cause any prejudice to the accused. When the victim evidence is crystal clear there is no need to corroborate it with any other witnesses. Therefore, the trial court rightly convicted the appellant.

7. Heard the learned counsel appearing on either side and perused the materials placed on record.

8. On perusal of the evidence of the victim, she categorically deposed that on the night of August 2017 due to love torture, the accused had come to her house after knowing that there was no one in the house except the victim and had compelled and forcibly committed sexual intercourse with her and thereafter, he assured that he will marry her. On

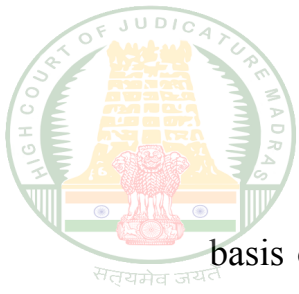


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17.06.2018, when the victim compelled the appellant to marry her, he had taken her to Kullanoor Murugan Temple at Pochampalli and had tied Thali. Thereafter, in the temple itself he had committed sexual intercourse with her. Further, he had taken her to KRP dam on several occasions and had committed sexual intercourse. Thereafter, he got married to another girl by name Loganayagi. Therefore, a complaint was lodged and the same was registered in Crime No.2 of 2019 on 27.04.2019.

9. The counsel for the appellant specifically contended that there was huge delay in lodging the complaint and as such the entire case of the prosecution is doubtful. On perusal of the entire deposition of the P.W.1 reveal that the accused had committed aggravated penetrative sexual assault on the victim under the pretext of marriage from the year 2017. Only in the month of April, the victim had come to know that the accused had gotten married to another girl and as such she lodged a complaint. In fact, on the date of lodging the complaint, she was a minor. She was born on 31.07.2002. In order to prove her age, the school certificate was marked by the prosecution as Ex.P7.

10. On perusal of the records which was issued and also on the



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basis of the 10th std marksheet, the prosecution categorically proved the age of the victim as minor at the time of occurrence. After registration of FIR in Crime No.2 of 2019, the victim girl was subjected to medical examination. The doctor who examined the victim girl had deposed as P.W.11. On perusal of the records, she categorically deposed that the victim appeared before her and stated that from 2017 onwards, the accused had committed aggravated penetrative sexual assault on the victim. She further opined that that victim girl was subject to penetrative sexual assault and her hymen was not intact and that there was possibility of sexual assault.

11. Further, the father of the victim girl was examined as P.W.2. He came to know that the accused compelled the victim girl to fall in love with him even while she was studying 11th std. In fact, he had also threatened the victim girl that if she fails to do so, he will commit suicide. Therefore, he corroborated the evidence of P.W.1. The victim girl was examined as P.W.3. She also categorically corroborated the evidence of P.W.1 & P.W.2. The Head Master of the school was examined as P.W.9. In order to prove the age of the victim, he had issued age certificate. It was marked as Ex.P7. On perusal of all records and the certificates which



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were submitted at the time of her admission, the prosecution proved the age of the victim as minor and the fact that she was born on 21.07.2002.

Hence, the prosecution had categorically proved all the charges and the trial court rightly convicted the appellant herein. Therefore, it does not require any interference by this court.

12. In view of the above, this Court finds no infirmity or illegality in the Judgment dated 08.04.2022 passed in Spl.S.C.No.31 of 2019 on the file of the Sessions Judge, Fast Track Court, Krishnagiri. The respondent is directed take appropriate steps to secure the appellant in order to undergo remaining period of sentence imposed by the trial court forthwith.

13. Accordingly, this Criminal Appeal stands dismissed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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- To
1. The learned Sessions Judge,
Fast Track Mahila Court, Krishnagiri
 2. The Inspector of Police,
All Women Police Station,
Barugur Police Station,
Krishnagiri District.
 3. The Public Prosecutor,
High Court of Madras,
Chennai.
 4. The Superintendent,
Central Prison, Vellore.



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G.K.ILANTHIRAIYAN, J.

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