



Crl.A.No.877 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2025

CORAM:

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

Crl.A.No.877 of 2024
and Crl.MP.No.15646 of 2024

Jeyakrishnan

... Appellant

Vs.

The State represented by its
The Inspector of Police,
AWPS – Dharapuram Police Station,
Tiruppur District.
(Crime No.4 of 2020)

... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, praying to call for the entire records pertaining to Special S.C.No.35 of 2020, dated 31.10.2022 on the file of the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Tiruppur and set aside the said conviction.

For Appellant : Mr.S.Selvakumar
For Respondent : Mr.S.Raja Kumar,
Additional Public Prosecutor

JUDGMENT

This Criminal Appeal has been preferred as against the Judgment dated 31.10.2022 passed in Spl.S.C.No.35 of 2020 on the file of the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Tiruppur, thereby convicted the appellant for the offences



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punishable under Sections 3 read with 4 of the POCSO Act and Section 363 & 376(3) of IPC.

2. The case of the prosecution is that while the victim girl was visiting her grandmother's house at Sankar Mill Back Side, Dharapuram, the accused took her to various places in and around Dharapuram. It is alleged that the accused kissed the victim and committed penetrative sexual assault on her in a land situated at LIC Nagar, Dharapuram. The next day, the victim's mother lodged a complaint before the respondent.

3. Based on the complaint, the respondent registered an FIR in Crime No.4 of 2020 for the offences under Sections 3 read with 4 of POCSO Act and Sections 363 & 376(3) of IPC. After completion of the investigation, a final report was filed and the same was taken cognizance in Spl.S.C.No.35 of 2020 on the file of the Sessions Judge, Mahila Court (Fast Track Mahila Court), Tiruppur.

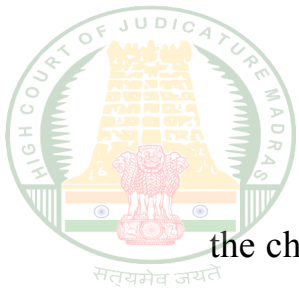
4. On the side of the prosecution, P.Ws.1 to 6 were examined and Exs.P1 to P11 were marked. On the side of the accused,



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no witnesses were examined and no documents were marked. On perusal of the oral and documentary evidence, the Trial Court found the appellant guilty of the offence punishable under Section 3 read with 4 of POCSO Act and sentenced him to undergo seven years of rigorous imprisonment and to pay a fine of Rs.1,000/- in default, to undergo three months of simple imprisonment. Further, he was convicted for the offence under Section 363 of IPC and was sentenced to undergo seven years of rigorous imprisonment and to pay a fine of Rs.1,000/- in default, to undergo three months of simple imprisonment. Additionally, he was convicted for the offence under Section 376(3) of IPC and was sentenced to undergo twenty years of rigorous imprisonment and to pay a fine of Rs.2,000/-, in default to undergo three months simple imprisonment. Aggrieved by the same, the present Criminal Appeal has been filed.

5. The learned counsel appearing for the appellant would submit that it is a very pathetic case. The entire complaint is a false one and no such occurrence had happened. In fact, the victim fell in love with another boy, and in order to cover up the same and to falsely implicate the appellant, a false complaint has been foisted as against him. The prosecution has miserably failed to prove any of the charges as alleged in



the charge sheet. The Doctor, who examined the victim girl and issued a certificate, which did not support the case of the prosecution. Though the victim's hymen was not intact, there was no proof of recent sexual intercourse at the time of the medical examination. Further, there was delay in lodging the complaint. According to the victim girl, the occurrence took place on 27.01.2020 and she informed to her mother on the very same day. However, the complaint was lodged only on 28.01.2020 at about 5.00 p.m. There was no explanation from the prosecution for the delay in lodging the complaint.

6. It is further submitted that on the invitation of the appellant, the victim voluntarily accompanied him and visited several places in and around Dharapuram. It is further alleged that, at about 5.00 p.m. the appellant took her to a land owned by one Seenigounder and committed penetrative sexual assault on her. Even then, the victim girl did not reach home immediately and she reached her home only at about 11.00 p.m. It was informed to her parents on the same night. However, there was no complaint on that day. The complaint lodged only on 28.01.2020 at around 5.00 p.m. Therefore, it is completely a false case that has been foisted against the appellant.



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7. The learned Additional Public Prosecutor appearing for the respondent would submit that the victim girl was only aged about 13 years at the time of occurrence and the appellant had committed penetrative sexual assault on the minor victim girl. The victim girl categorically deposed and the same was corroborated by P.W.2, the mother of the victim. The Doctor, who examined the victim girl, was examined as P.W.3 and deposed that the hymen was not intact and issued a medical certificate, which was marked as Ex.P3 and the medical report was marked as Ex.P4. Therefore, the prosecution has clearly established all the ingredients of the offences charged, and the Trial Court rightly appreciated the evidence on record and convicted the appellant. Hence, it does not warrant any interference of this Court.

8. Heard the learned counsel appearing on either side and perused the materials available on record.

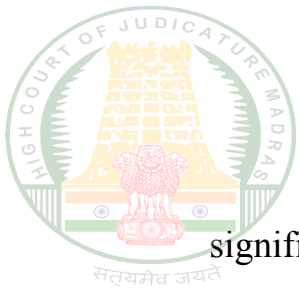
9. On perusal of the deposition of the victim girl, who was examined as P.W.1, it is revealed that on 26.01.2020, she visited her



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grandmother's house at Dharapuram. She already had acquaintance with the appellant, since he used to come for construction work to her aunt's house at Dharapuram. According to her, on 27.01.2020 at about 2.00 p.m., when the grandmother of the victim was not in the house, she was induced by the appellant to go out with him. She also went along with him and visited several places in and around Dharapuram. At about 5.00 p.m, she was dragged to the land owned by one Seenigounder situated at LIC.Nagar, Dharapuram and there the appellant had committed penetrative sexual assault on the victim. However, it is seen that the victim did not return home immediately after the alleged occurrence and reached home only at a later point of time. If at all, the appellant had committed penetrative sexual assault on the victim as alleged, she would have either returned home or raised an alarm by screaming at the time of the alleged incident.

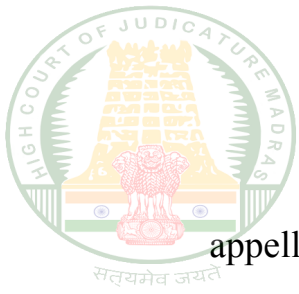
10. That apart, even after the victim reached her house and informed her mother, viz., P.W.2, no complaint was lodged on the same day. P.W.2 lodged a complaint only on 28.01.2020, that too at about 5.00 p.m. There is absolutely no explanation for the delay in lodging the complaint. Though delay in lodging the complaint may not be material in cases involving sexual offences, in the present case, the delay assumes



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significance in light of the surrounding circumstances. The way in which the victim deposed before the Trial Court, it is very clear that it is completely a false case. Further, on the very next day, the victim was subjected to medical examination. P.W.3 – the Doctor, who examined the victim, issued a medical certificate, which was marked as Ex.P3, and medical report, which was marked as Ex.P4. According to P.W.3, though the victim's hymen was not intact, there was no detection of spermatozoa on either of the vaginal smears, and no semen was detected on any of the items sent for analysis.

11. Further, the medical report clearly reveals that there was no evidence of recent sexual intercourse on the victim. Therefore, the medical report did not support the case of the prosecution. The medical report also reveals that there were no external injuries noted on any part of the body of the victim. All parts of the victim, including the genitalia, were found to be normal and no signs of external injury were observed. If at all the victim had been forcibly dragged and sexually assaulted in the agricultural land owned by Seenugounder, definitely, it would have caused injuries on her body. Further, the victim was not kidnapped by the appellant. It is not the case of the prosecution that the



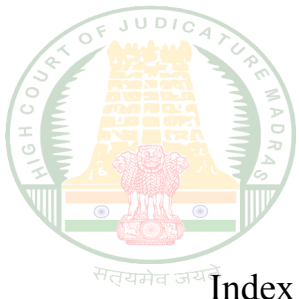
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appellant fell in love with the victim and eloped with her so as to attract the ingredients of the offence under Section 366 of IPC. Therefore, the prosecution has failed to prove any of the charges beyond reasonable doubt. Even then, the Trial Court has mechanically convicted the appellant and as such, the conviction and sentence imposed on the appellant cannot be sustained and are liable to be set aside.

12. In view of the above, the Judgment dated 31.10.2022 passed in Spl.C.C.No.35 of 2020 on the file of the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Tiruppur, is hereby set aside. The appellant/accused is acquitted of all charges under Section 3 read with 4 of the POCSO Act and Section 363 & 376(3) of IPC.

13. The appellant/accused is directed to be set at liberty forthwith, unless his custody is otherwise required in connection with any other case. The fine amount, if any paid, shall be refunded to the appellant forthwith. The bail bond, if any executed, shall stand cancelled.

14. In the result, this Criminal Appeal stands allowed. Consequently, connected miscellaneous petition is closed.



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Index : Yes/No

Internet : Yes/No

Speaking/Non Speaking order

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To

1.The Sessions Judge, Magalir Neethimandram
(Fast Track Mahila Court), Tiruppur,

2.The Inspector of Police,
AWPS – Dharapuram Police Station,
Tiruppur District.

3.The Superintendent,
Central Prison, Coimbatore.

4.The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN. J.

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