



Crl.A.No.649 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 26.06.2025

CORAM

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

Crl.A.No.649 of 2025
and Crl.M.P.No.11377 of 2025

Prabhu
S/o. Velu
Vanniyapudhur,
Vaniyampadi Taluk,
Vellore District.

..... Appellant / Accused

Vs

The Inspector of Police,
V.Kalathur Police Station,
Perambalur District.
(Crime No.247 of 2015)

..... Respondent

Prayer: Criminal Appeal filed under Section 415(2) of Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the conviction and sentence imposed on the appellant pertaining to the judgment in Spl.S.C.No.31 of 2018 on the file of the Sessions Judge, Mahila Court, Perambalur dated 04.04.2025, by allowing the Criminal Appeal.

For Appellant : Mr.B.Kumarasamy

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

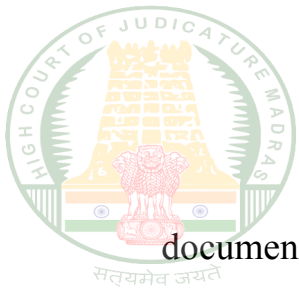
**JUDGMENT**

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This Criminal Appeal has been preferred as against the judgment passed in Spl.S.C.No.31 of 2018 on the file of the Sessions Judge, Mahila Court, Perambalur dated 04.04.2025 thereby convicting the appellant for the offences punishable under Section 366 IPC and Section 5(l) r/w. 6 of POCSO Act.

2. The case of the prosecution is that on 10.08.2015 the appellant kidnapped the minor victim girl and they stayed together till 20.08.2015. While they were staying together, on the pretext of marriage, the appellant had committed penetrative sexual assault on the minor victim girl. On the complaint lodged by the father of the victim (P.W.1), the respondent police registered a FIR against the appellant in Cr.No.247 of 2015 for the offences punishable under Section 366(A) IPC, Section 5(l) r/w. Section 6 of POCSO Act. After completion of investigation final report was filed and the same was taken cognizance by the trial Court in Spl.S.C.No.31 of 2018.

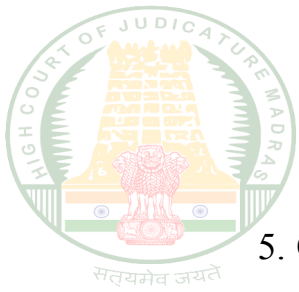
3. On the side of the prosecution P.W.1 to P.W.18 were examined and Exs.P1 to P13 were marked. On the side of the appellant no witness was examined however, Exs.D1 and D2 were marked. On perusal of the oral and



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documentary evidence, the trial Court found the appellant guilty for the offences punishable under Section 366 IPC and Section 5(l) r/w. 6 of POCSO Act and the appellant was sentenced to undergo 10 years Rigorous Imprisonment and to pay fine of Rs.50,000/- in default to undergo one year Rigorous Imprisonment for the offence punishable under Section 366 IPC and he was sentenced to undergo 20 years Rigorous Imprisonment and to pay fine of Rs.50,000/- in default to undergo two years Rigorous Imprisonment for the offences punishable under Section 5(l) r/w. 6 of POCSO Act. Aggrieved by the same, the present Criminal Appeal has been preferred by the appellant / accused.

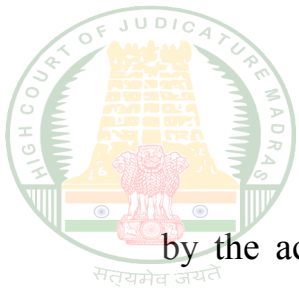
4. Mr.B.Kumarasamy, the learned counsel for the appellant / accused, submitted that even while pending trial, the victim girl deposed that the appellant married her and they are living together happily and she has gave birth to a female child. Their marriage certificate copy was marked as Ex.D1 and the birth certificate of the female child was marked as Ex.D2. However without considering the same, the trial Court mechanically convicted the appellant.



5. On an earlier occasion, this Court ordered for the personal appearance of the victim girl before this Court. Today, the victim girl along with her female child appeared before this Court and she deposed that even from the date of their marriage they are living happily and she had also gave birth to a female child and her birth certificate is marked as Ex.D2. She further deposed that even till the judgment of the trial Court, they lived together happily and in view of the conviction and sentence imposed by the trial Court, the appellant was remanded to judicial custody.

6. Considering the above facts and circumstances, the conviction and continuation of sentence of the appellant would not serve any purpose. In view of the above peculiar circumstances, this Court is inclined to set aside the conviction and sentence imposed by the trial Court.

7. In the result, the **Criminal Appeal is allowed** and in view of the same the connected miscellaneous petition is closed. The conviction and sentence imposed in the judgment dated 04.04.2025 made in Spl.S.C.No.31 of 2018 on the file of the Sessions Judge, Mahila Court, Perambalur, is hereby set aside. The appellant is directed to be set at liberty forthwith. Fine amount, if any, paid



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by the accused shall be refunded to him. Bail bond, if any, executed by the accused shall stand discharged.

The appellant shall register his marriage with the victim girl and produce the marriage registration certificate before the respondent within a period of eight weeks from the date of his release from the prison, failing which this judgment stands automatically cancelled and the respondent police is at liberty to secure the appellant in order to undergo the remaining period of sentence.

26.06.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Interned : Yes
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To

1.The Sessions Judge, Mahila Court, Perambalur.

2.The Inspector of Police,
V.Kalathur Police Station,
Perambalur District.

3.The Public Prosecutor,
High Court of Madras,
Chennai.

4. The Superintendent,
Central Prison, Trichy.

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G.K.ILANTHIRAIYAN, J.

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