



WEB COPY



CrI.A.No.932 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.932 of 2022

Saravanakumar

... Appellant

Vs.

State rep. by Inspector of Police,
All Women Police Station,
Dharapuram,
Tiruppur District.
Crime No.2 of 2020.

... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, to set aside the judgment passed by the learned Mahalir Neethi Mandram, Tiruppur on 26.04.2022 in Special S.C.No.32 of 2020 and allow this Appeal.

For Appellant : Ms.Chithra Ponds for
Mr.C.S.Saravanan

For Respondent : Mr.Leonard Arul Joseph Selvam,
Additional Public Prosecutor

JUDGMENT



CrI.A.No.932 of 2022

WEB COPY

This Criminal Appeal has been filed by the appellant to set aside the impugned judgment, dated 26.04.2022 in Special Sessions Case No.32 of 2020 passed by the learned Sessions Judge, Mahalir Neethimandram, Tiruppur (trial Court).

2.The conviction and sentence passed by the trial Court against the appellant are as follows:

- For offence under Section 5(l) r/w 6 of Protection of Children from Sexual Offences Act, 2012, the appellant is convicted and sentenced to undergo ten years Rigorous Imprisonment and to pay a fine of Rs.10,000/- in default to undergo Simple Imprisonment for one year.
- For offence under Section 376(3) IPC, the appellant is convicted and sentenced to undergo ten years Rigorous Imprisonment and to pay a fine of Rs.10,000/- in default to undergo Simple Imprisonment for one year.
- For offence under Section 506(i) IPC, the appellant is convicted and sentenced to undergo two years Rigorous Imprisonment and to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for three months.

3.Gist of the case is that on the date of occurrence, the victim girl/PW1 was a minor and her date of birth was 22.02.2005. PW2, the



WEB COPY

mother of the victim girl lodged a complaint (Ex.P2) to the respondent Police stating that on 07.01.2020 at about 06.00 p.m, the victim girl/PW1, who was studying 10th std in St.Aloysius Higher Secondary School, Dharapuram, found frightened and in a sobbing state. When PW2 enquired, the victim girl/PW1 informed that one month before, the appellant who is from same village, had forcibly taken her to his house threatening if she does not come, her parents will be done away, pushed the victim girl down, removed her clothes and committed penetrative sexual assault. This he was doing often. On 29.12.2019, when the victim girl was alone in her house at about 12.00 noon, the appellant came to her house and forcibly dragged the victim girl to his house and committed penetrative sexual assault. On 03.01.2020, the appellant took the victim girl in a bus by threat to Alangium and then to a river bed area, an isolated place and committed penetrative sexual assault. One Ms.Vedavalli, Sub Inspector of Police attached to the respondent Police received the complaint (Ex.P2), registered FIR (Ex.P9) in Crime No.2 of 2020 for offence under Sections 5(l) & 6 of Protection of Children from Sexual Offences Act, 2012 and Section 506(ii) of IPC. Thereafter, PW7/Inspector of Police took up investigation, visited the scene of occurrence *i.e.*, the house of the appellant and river bed area, prepared



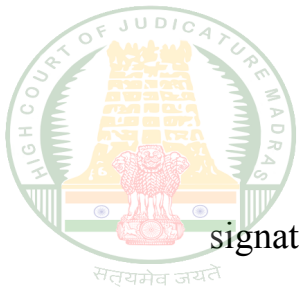
Observation Mahazar (Ex.P5), Rough Sketch (Ex.P10), examined the witnesses, recorded their statements, sent the victim girl/PW1 to the Government Hospital, Dharapuram for medical examination, thereafter, produced the victim girl before the Magistrate, 164 Cr.P.C (Ex.P12) recorded, arrested the appellant on 08.01.2020, recorded his confession statement (Ex.P11) and sent the appellant to the Government Hospital, Dharapuram for potency test. The Doctor/PW5 conducted potency test and issued potency certificate (Ex.P8). The Doctor/PW6 examined the victim girl/PW1 and issued medical report (Ex.P6) and Accident Register (Ex.P7) confirming the victim girl is not virgin, hymen not intact. On collection of medical records and other documents, PW7 altered the Sections to 5(l)(i)(r) r/w 6 of Protection of Children from Sexual Offences Act, 2012 and Sections 363, 376(3) & 506(2) of IPC and filed charge sheet before the trial Court.

4. During trial, on the side of the prosecution, PW1 to PW7 examined and Exs.P1 to P14 marked. On the side of defence, no witness examined and no document marked. On conclusion of trial, the trial Court convicted the appellant as stated above.



WEB COPY

5.The learned counsel for the appellant submitted that the appellant and victim girl/PW1 belong to same locality with similar social status and they were in love with each other. Since the parents of the victim girl not willing for the marriage, they forced the victim girl and lodged a false complaint (Ex.P2) as though the appellant committed penetrative sexual assault on the victim girl. She further submitted that the complaint (Ex.P2) was lodged with a delay of one month, for which, no plausible explanation given. In this case, the victim girl/PW1 forced to give statement and to depose against the appellant. Even in the complaint (Ex.P2), it is recorded that the complaint (Ex.P2) was at the instance of one Kanagaraj, a Communist Leader known to PW2's husband. PW2 admits in her evidence that she is not aware what is written in the complaint (Ex.P2) and the complaint (Ex.P2) was written by Kanagaraj and she only signed. In this case, apart from the victim girl/PW1 and her mother/PW2, no independent witness examined. Added to it, the father of the victim girl and the said Kanagaraj, who scribed the complaint (Ex.P2), not examined as witnesses. PW3 & PW4 are the witnesses for Observation Mahazar (Ex.P5), both confirmed that they are not aware what is written in Ex.P5 and only



signature obtained by the Police. The Doctor/PW6 examined the victim girl/PW1 confirmed that there was no external injuries and no traces of recent sexual intercourse and hymen found ruptured. PW6 in her evidence admits that hymen could get disturbed due to other reasons.

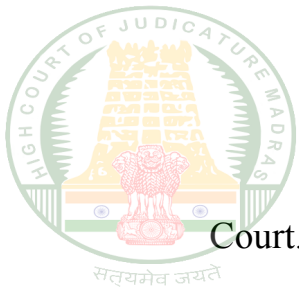
6.The learned counsel further submitted that the victim girl/PW1 and the appellant got married and they have a girl baby Thamaraiselvi born to them on 02.02.2024. Both the victim girl/PW1 and the appellant are living as husband and wife with the concurrence and blessings of both families. At this stage, the learned counsel for the appellant relied upon the decision of the Hon'ble Apex Court and submitted that in a similar situation the Apex Court in “*K.Dhandapani vs. State by the Inspector of Police* reported in *2022 SCC Online SC 1056*”, considered the subsequent events and observed that the Court cannot shut its eyes to the ground reality and disturb the happy family life of the appellant and the prosecutrix. Hence, she prayed for setting aside the conviction and sentence imposed by the trial Court.

7.The learned Additional Public Prosecutor appearing for the respondent Police submitted that in this case PW1 is the victim girl and PW2



WEB COPY

is the defacto complainant/mother of the victim girl, who lodged the complaint (Ex.P2). On the date of occurrence, the victim girl was a minor, her date of birth was 22.02.2005 and her birth certificate (Ex.P1) produced. On the complaint (Ex.P2), the victim girl was enquired, confirmed about the penetrative sexual assault committed by the appellant, thereafter, she was produced before the Doctor/PW6 for medical examination. The Doctor/PW6 confirmed that the victim girl was not virgin and hymen not intact and gave medical report (Ex.P6) and Accident Register (Ex.P7). Thereafter, PW7/Investigating Officer visited the scene of occurrence *i.e.*, the house of the appellant and river bed area where the penetrative sexual assault said to have taken place on 29.12.2019 and 03.01.2020, prepared Observation Mahazar (Ex.P5) and Rough Sketch (Ex.P10). The victim girl confirmed that she was subjected to penetrative sexual assault by the appellant in her 164 statement (Ex.P12) as well as in her evidence before the trial Court. The appellant was arrested, confessed and admitted his guilt. The appellant produced before the Magistrate, remanded and thereafter, he was produced for medical examination. PW5 is the Doctor examined the appellant and gave potency certificate (Ex.P6). After examination of witnesses and collection of documents, charge sheet filed before the trial



Court. During trial, on the side of the prosecution, PW1 to PW7 examined and Exs.P1 to P14 marked. On the side of defence, no witness examined and no document marked. On conclusion of trial, the trial Court convicted the appellant as stated above.

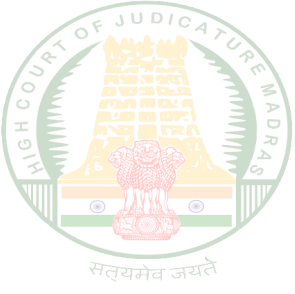
8.The learned Additional Public Prosecutor produced the letter given by the victim girl/PW1 confirming the marriage of the victim girl with the appellant and also produced the birth certificate confirming the birth of girl baby to them named Thamaraiselvi. He fairly submitted that the appellant married the victim girl and they are living as husband and wife and they have a girl baby born to them on 02.02.2024. It is also found that the appellant is the only earning member who is supporting and taking care of victim girl and the girl baby. In view of the subsequent development and considering the welfare and future of the appellant and the victim girl to live as husband and wife, this Court can decide the appeal.

9.Considering the rival submissions and on perusal of the materials, it is seen that prior to lodging of complaint (Ex.P2), the appellant and the victim girl were in love with each other. During their teenage relationship,



CrI.A.No.932 of 2022

they had physical relationship. Later, a complaint (Ex.P2) lodged that the appellant committed penetrative sexual assault and the victim girl/PW1 also deposed against the appellant. But later, the difference of opinion is ironed out and the victim girl and the appellant got married and living as husband and wife and they have a girl baby named Thamaraiselvi born to them on 02.02.2024. Scanned reproduction of the letter given by the victim girl and the birth certificate of Thamaraiselvi are as follows:



CrI.A.No.932 of 2022

தாராபுரம்
.09.2025

WEB COPY அனுப்புநர் :-

ச.ரோஜா, வயது 20
க/பெ.சரவணக்குமார்
639, அணைக்காடு
வீராட்சிமங்கலம்
தாராபுரம் தாலுக்கா
திருப்பூர் மாவட்டம்.

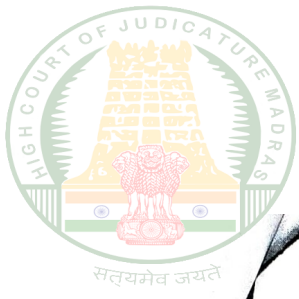
பெறுநர் :-

காவல் ஆய்வாளர் அவர்கள்
அனைத்து மகளிர் காவல் நிலையம்
தாராபுரம்.

அம்மா,

நான் மேற்கண்ட முகவரியில் எனது குடும்பத்துடன் வசித்து வருகிறேன். கடந்த 09.07.2023-ம் தேதி தாராபுரம் அணைக்காடு வீராட்சிமங்கலத்தை சேர்ந்த கருப்புச்சாமி மகன் சரவணக்குமாருக்கும் எனக்கும் பெரியோர்கள் முன்னிலையில் தாராபுரம் தாளக்கரையில் உள்ள ஆலமரத்து கருப்புச்சாமி கோவிலில் திருமணம் நடைபெற்றது. எனக்கு 1 ½ வயதில் தாமரைச்செல்வி என்ற பெண் குழந்தை உள்ளது. என் கணவர் கடந்த 07.01.2020-ம் தேதி தாராபுரம் அனைத்து மகளிர் காவல் நிலையத்தில் எனது தாயார் வசந்தி என்பவர் கொடுத்த புகாரின் பேரில் குற்ற வழக்கு (Cr.No.2/2020) பதிவு செய்யப்பட்டு கோவை மத்திய சிறையில் இருந்தார். பின்பு பிணையில் வந்தபோது எனக்கு 18 வயது நிரம்பியதால் இருவரும் திருமணம் செய்து கொண்டு ஒன்றாக வாழ்ந்து வந்தோம். தற்போது எனது கணவர் வழக்கு விசாரணை முடிந்து தண்டனை வழங்கியதன் காரணமாக கோவை மத்திய சிறையில் இருந்து வந்தார். அதன் பின்பு சென்னை உயர்நீதி மன்றத்தில் பிணை மனு தாக்கல் செய்ததின் பேரில் மேற்படி மனு அனுமதிக்கப்பட்டு பிணையில் வெளியில் இருந்து வருகிறார். நான் எனது கணவருடன் சேர்ந்து வாழ இருப்பதாலும் எனது குழந்தையின் எதிர்காலம் மற்றும் பாதுகாப்பு கருதி இந்த வழக்கில் இருந்து எனது கணவரை விடுதலை செய்யுமாறு பணிவுடன் கேட்டுக் கொள்கிறேன்.

கிப்படிக்கு
S. Raja



CrL.A.No.932 of 2022

படிவம் எண் 5
Form No. 5

WEB COPY

தமிழ்நாடு அரசு
GOVERNMENT OF TAMIL NADUபொது சுகாதாரம் மற்றும் நோய்த் தடுப்பு மருத்துவத் துறை
DEPARTMENT OF PUBLIC HEALTH AND PREVENTIVE MEDICINEஅரசு மருத்துவமனை, தாராபுரம்
GOVERNMENT HOSPITAL, DHARAPURAM

பிறப்பு சான்றிதழ் / BIRTH CERTIFICATE

(பிறப்பு மற்றும் இறப்பு பதிவு சட்டம், 1969ன் பிரிவு 12/17 மற்றும் தமிழ்நாடு பிறப்பு இறப்பு பதிவு விதிகள் 2000 விதி எண். 8/13 இன் கீழ் வழங்கப்படுகிறது.)

(ISSUED UNDER SECTION 12/17 OF THE REGISTRATION OF BIRTHS & DEATHS ACT, 1969 AND RULE 8/13 OF THE TAMIL NADU REGISTRATION OF BIRTH AND DEATH RULES 2000.)

தேக்கண்ட தகவல் இந்நியா, தமிழ்நாடு மாநிலம், திருப்பூர் மாவட்டம், தாராபுரம் வட்டம், தாராபுரம் அரசு மருத்துவமனை சேர்ந்த அசல் பிறப்பு பதிவேட்டிலிருந்து எடுக்கப்பட்டவை என சான்று அளிக்கப்படுகிறது.

THIS IS TO CERTIFY THAT THE FOLLOWING INFORMATION HAS BEEN TAKEN FROM THE ORIGINAL RECORD OF BIRTH WHICH IS THE REGISTER FOR GH DHARAPURAM OF DHARAPURAM TALUK OF TIRUPPUR DISTRICT OF TAMIL NADU STATE, INDIA.

NAME / பெயர் :
S. THAMARASELVI / ச. தாமரைச்செல்வி

SEX / பாலினம் : FEMALE / பெண்

DATE OF BIRTH / பிறந்த தேதி : 02/02/2024
TWO - FEBRUARY - TWO THOUSAND TWENTY FOURPLACE OF BIRTH / பிறந்த இடம் :
GH DHARAPURAM, DHARAPURAM

தாராபுரம் அரசு மருத்துவமனை, தாராபுரம்

NAME OF MOTHER / தாயின் பெயர் :
ROJA / ரோஜாNAME OF FATHER / தந்தையின் பெயர் :
SARAVANAKUMAR / சரவணக்குமார்

MOTHER'S UID NUMBER / தாயின் ஆதார் எண் :

FATHER'S UID NUMBER / தந்தையின் ஆதார் எண் :

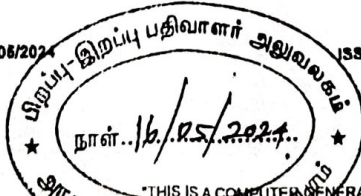
ADDRESS OF PARENTS AT THE TIME OF BIRTH OF THE CHILD /
குழந்தை பிறப்பின் போது பெற்றோரின் முகவரி :PERMANENT ADDRESS OF PARENTS /
பெற்றோரின் நிரந்தர முகவரி :639, ANAIKKADU, VEERACHIMANGALAM, VEERACHIMANGALAM,
DHARAPURAM, TIRUPPUR, TAMIL NADU - 638673639, ANAIKKADU, VEERACHIMANGALAM, VEERACHIMANGALAM,
DHARAPURAM, TIRUPPUR, TAMIL NADU - 638673639, அணைக்காடு, வீராச்சிமங்கலம், வீராச்சிமங்கலம்,
தாராபுரம், திருப்பூர், தமிழ்நாடு - 638673639, அணைக்காடு, வீராச்சிமங்கலம், வீராச்சிமங்கலம்,
தாராபுரம், திருப்பூர், தமிழ்நாடு - 638673REGISTRATION NUMBER / பதிவு எண் :
B-2024-33-16205-000092

DATE OF REGISTRATION / பதிவு செய்த தேதி : 09/02/2024

REMARKS (IF ANY) / குறிப்பு :

DATE OF ISSUE / வழங்கிய நாள் : 16/05/2024

ISSUING AUTHORITY / சான்றிதழ் அளிப்பவர்

REGISTRAR (BIRTH & DEATH)
பதிவாளர் (பிறப்பு & இறப்பு)
GH DHARAPURAM
தாராபுரம் அரசு மருத்துவமனை"THIS IS A COMPUTER GENERATED CERTIFICATE"
"THE GOVERNMENT OF INDIA VIDE CIRCULAR NO. 112/2014-VS(CRS) DATED 27-JULY-2015 HAS
APPROVED THIS CERTIFICATE AS A VALID LEGAL DOCUMENT FOR ALL OFFICIAL PURPOSES."
"THE REGISTRATION NUMBER IS UNIQUE TO EACH EVENT."

* பிறப்பு மற்றும் இறப்பு பதிவு செய்வதை உறுதி செய்யுங்கள்! ENSURE REGISTRATION OF EVERY BIRTH AND DEATH*

B15550959/2024



WEB.COM

10.Today, the appellant, victim girl and their girl baby Thamaraiselvi appeared through the video conference. Mr.M.Sivakumar, Special Sub Inspector of Police attached to the respondent Police Station confirmed their identity. On interaction with them, both the appellant and victim girl confirmed that they are living as husband and wife with their girl baby and leading a happy matrimonial life. Further confirmed that the conviction of the appellant would harm their matrimonial life more than serve justice. From the birth certificate of the girl baby Thamaraiselvi, it is seen that the victim girl is the mother and the appellant is the father.

11.The Hon'ble Apex Court in *K.Dhandapani's case* had considered the subsequent events and observed that the Courts cannot shut its eyes to the ground reality and disturb the happy family life of the appellant as well as the victim girl. In view of the same, this Court is of the view that allowing the appellant and the victim girl to lead a happy family life would be the real justice. Further, the act of the appellant and the victim girl was due to the change of hormones and due to their innocence not knowing the seriousness and repercussion.



CrI.A.No.932 of 2022

WEB.COM

12.In view of the above, the conviction and sentence imposed on the appellant in Special S.C.No.32 of 2020, dated 26.04.2022 by the learned Sessions Judge, Mahalir Neethimandram, Tiruppur are hereby set aside. The appellant is acquitted from all the charges levelled against him. Fine amount, if any, paid shall be refunded. Bail bond, if any, executed shall stand cancelled.

13.In the result, the Criminal Appeal stands allowed.

24.09.2025

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
Internet: Yes/No

vv2

To

1.The Sessions Judge,
Mahalir Neethimandram,
Tiruppur.

M.NIRMAL KUMAR, J.



CrI.A.No.932 of 2022

vv2

WEB COPY

2.The Inspector of Police,
All Women Police Station,
Dharapuram,
Tiruppur District.

3.The Central Prison,
Coimbatore.

4.The Public Prosecutor,
Madras High Court.

CrI.A.No.932 of 2022

24.09.2025