



Crl.A.No.712 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.712 of 2025
and Crl.M.P.No.12176 of 2025

Mr.Kirubakaran
S/o. Raja
Card No.681, No.120, SLR Camp,
Abdullapuram, Melmovanur Post, Vellore. Appellant / Accused

Vs.

The Inspector of Police,
Vellore All Women Police Station,
Vellore District.
(Crime No.09 of 2024) Respondent/Complainant

Prayer: Criminal Appeal filed under Section 415(2) of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the entire records in connection with the Special SC No.68/2024 dated 26.05.2025 on the file of the learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, 2012 Vellore District and set aside the conviction and sentence imposed by the learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, 2012 Vellore District in Special S.C.No.68/2024 dated 26.05.2025.



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For Appellant : Mr.M.Mohamed Saifulla

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

JUDGMENT

This Criminal Appeal has been preferred as against the judgment passed in Special SC No.68/2024 dated 26.05.2025 on the file of the learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, 2012 Vellore District, thereby convicting the appellant for the offences punishable under Section 354A(1)(ii) IPC and Section 12 r/w. 11(i), 42 of POCSO Act, 2012 and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

2. The case of the prosecution is that on 22.03.2024, while the minor victim girl was at her petty shop, the accused approached her and asked for a cigarette. The victim girl informed him that it was not available in the shop. Immediately the accused unzipped his pant and showed his private part to the minor victim girl. On the basis of the above allegation a FIR has been registered by the respondent in Cr.No.9 of 2024 for the offences punishable under Section 11(i), 42 of POCSO Act, 2012. After completion of investigation, final report has been filed and the same has been taken cognizance by the Special Court for



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Exclusive Trial of Cases under POCSO Act, Vellore District in

WEB COPY Spl.S.C.No.68/2024.

3. On the side of the prosecution the prosecution had examined P.W.1 to P.W.12 and marked Exs.P1 to P11. On the side of the accused no one was examined and no documents were marked. On perusal of the oral and documentary evidence, the trial Court found the appellant guilty and sentenced him as below:

<i>Conviction</i>	<i>Sentence</i>
Section 354A(1)(ii) IPC and Section 12 r/w. 11(i), 42 of POCSO Act, 2012	To undergo three years rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo three months rigorous imprisonment.
Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002	To undergo three years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default to undergo three months rigorous imprisonment.

Aggrieved by the same, the present Criminal Appeal has been preferred.

4. The learned counsel for the appellant would submit that no charge has been made out as against the appellant even as per the case of prosecution. No charge is proved by the prosecution to convict the appellant. In support of the victim's evidence, no one has deposed and there is no evidence to corroborate

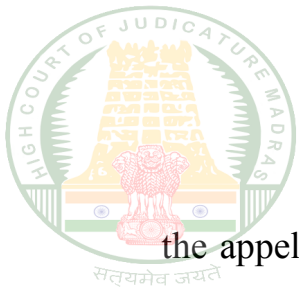


the evidence of victim. The trial Court convicted the appellant solely on the basis of the the testimony of the victim.

5. Per contra the learned Additional Public Prosecutor appearing for the respondent submitted that the victim girl was examined as P.W.2, the mother of the victim girl was examined as P.W.1, the sister of the victim girl was examined as P.W.3 and the maternal aunt of the victim girl was examined as P.W.4. The victim deposed that while she was in her petty shop the appellant asked for cigarette and when the victim girl informed that cigarette was not available in the shop, all of a sudden the appellant showed his private part to the victim girl and had given her some signal. When the mother of the victim girl came to the scene of occurrence, the victim girl informed about the incident to her. The victim's evidence was clearly corroborated by the other witnesses and as such the prosecution proved the charges beyond any doubt and the trial Court has rightly convicted the appellant and it does not warrant any interference by this Court.

6. Heard both sides and perused the materials available on record.

7. The victim was examined as P.W.2. Even according to the victim when



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the appellant asked for cigarette, it was informed to him that cigarette was not available in the shop and thereafter, the appellant had shown his private part to the victim girl. Except this allegation, the appellant did not commit any other offence. It has to be seen that whether the appellant was under the influence of alcohol at the time of the alleged occurrence.

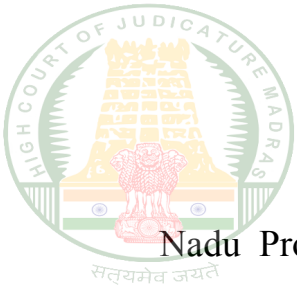
8. P.W.4 who is one of the relative of the victim was examined and she deposed that after the alleged occurrence, the appellant was questioned and for which he was simply standing and laughing for no reason. P.W.4 also suspected that the accused would be under the influence of alcohol. Hence, it is clear that the appellant had no intention to cause any sexual assault to the victim girl. It is relevant to extract Section 354 A(1) (ii) of IPC:

“ Section 354A(1) IPC : A man committing any of the following Acts :

(ii) a demand or request for sexual favours ;

shall be guilty of the offence of sexual harassment. ”

9. Even according to the case of prosecution, except showing his private part, the appellant did not demand or made any request for sexual favours from the victim girl. Therefore, the prosecution miserably failed to prove the offences under Section 354 A(1) (ii) of IPC and in view of the same, Section 4 of Tamil



Nadu Prohibition of Harassment of Women Act, 2002 also does not arise.

However, the charges under Section 12 r/w. 11(i), 42 of POCSO Act, 2012 is clearly made out and the prosecution proved the same. Hence, this Court is inclined to modify the sentence alone.

10. Accordingly, the conviction of sentence imposed by the learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, 2012 Vellore District in Special SC No.68/2024 dated 26.05.2025, under Section 354 A(1) (ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, is hereby set aside and the conviction of appellant under Section 12 r/w. 11(i), 42 of POCSO Act, alone is hereby confirmed and for which the sentence of imprisonment is reduced to the period of sentence already undergone by him.

11. In the result, the Criminal Appeal is partly allowed and the appellant is directed to be set at liberty forthwith. Connected miscellaneous petition is closed.

26.06.2025

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



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To

- 1.The Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Vellore.
- 2.The Inspector of Police,
Vellore All Women Police Station,
Vellore District.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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