



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-11-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRL A No. 931 of 2023

1. Sathish @ Pavadai
S/O Murugesan, NO.6,
Muthumariamman Kovil street,
Vambakeerapalayam, Puducherry. Now
confined in the Central Prison,
Kalapat, Puducherry.

Appellant(s)

Vs

1. State Rep By
Inspector of Police, Mudaliarpot Police
Station, Puducherry. Cr.NO. 145/2016.

Respondent(s)

Prayer: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, praying to set aside the conviction and sentence imposed against the appellant on 02.09.2022 in Spl.SC.No.3 of 2017, on the file of the Special Court under the POCSO Act, 2012, Puducherry and acquite the appellant.

For Appellant(s): Mr.R.Sankarasubbu for
 Mr.R.Thiyagu



For Respondent(s): Mr.M.V.Ramachandramoorthy
Additional Public Prosecutor
(APP) Pondy.

ORDER

The appellant has filed this appeal to set aside the conviction and sentence imposed against the appellant on 02.09.2022 in Spl.SC.No.3 of 2017, on the file of the Special Court under the POCSO Act, Puducherry.

2. By challenging the findings of the learned Trial Judge, the learned counsel for the petitioner raised the following grounds:

(I) It is submitted that the conviction and sentence of the appellant is erroneous, improper and illegal. The Learned Sessions Judge has totally failed



to consider the facts and evidence of the case.

(ii) It is submitted that the PW-1 is the mother of the victim girl as well as de-facto complainant. She has two daughter and a son. She was deposed that she was residing at Vambakkeerapalayam and working in a private School. PW-2-victim girl is the younger daughter PW-1 accepted in her cross examination that she was deposed the chief examination based on the police instruction. Therefore the conviction of the appellant is erroneous and illegal and liable to be set-aside by the Hon'ble Court.

(iii) PW -2 Victim girl deposed in her chief examination that the accused had proposed his love with the victim girl, initially she refused, after some time she was accepted. Thereafter he was alleged committed the said offences in different places. From the evidence of PW-2, it is clearly proved that the victim girl was tutored by the mother as well as police. PW-2 accepted in her cross examination that she was deposed the chief examination based on the police pressure. Therefore the conviction of the appellant is erroneous and illegal and liable to be set-aside by the Hon'ble Court.

(iv) It is submitted that the victim girl date of birth is 22.3.2001 and the



date of alleged occurrence was took place on 18.8.2016. She was completed 16 years of her age. She has also revealed in her evidence that she accepted his love. But the evidence of PW-1 and PW-2 are contradictory. Therefore the conviction of the appellant is erroneous and illegal and liable to be set-aside by the Hon'ble Court.

(v) It is submitted that the prosecution has examined PW-19 Dr.Sasirekha to prove the sexual assault. But she deposed that on 31.8.2016 she examined the victim girl and issued the medical examination report Ex.P-24 by opinion that "there is no evidence suggestive of forceful vaginal/ anal intercourse which neither refute nor confirm the forceful sexual intercourse/ assault". Therefore the conviction of the appellant is erroneous and illegal and liable to be set-aside by the Hon'ble Court.

3. The learned counsel for the petitioner submitted that the prosecution has not proved the charges against the accused by any acceptable circumstantial evidence. In spite of this, he was falsely implicated in the case involving the victim. Hence, he prays that the findings of the trial Court be set aside.



4. The prosecution raised objections stating that through the evidence of P.W.6 and P.W.9, the case of the prosecution was clearly established, and based on such evidence the learned Trial Judge rightly convicted the accused, which requires no interference.

5. On considering the submissions on both sides, it is seen that on the side of the prosecution, P.Ws.1 to 28 were examined and Exs.P1 to P39 were marked. On the side of the defence, D.Ws.1 to 3 were examined and M.Os.1 to 15 were marked. Based on the oral and documentary evidence, the learned Trial Judge concluded that the victim girl was kidnapped from the lawful guardianship, that she was married, and that aggravated sexual assault was committed on her. Therefore, the accused was charged under Sections 4 and 6 of the POCSO Act, as well as Section 9 of the Prohibition of Child Marriage Act, since the victim was a minor at the time of occurrence.

6. However, the evidence of the material witnesses - P.W.1 Sundari, the mother



of the victim girl, and P.W.2, the victim herself - requires close consideration.

On perusal of the deposition of P.W.1, she stated that her daughter voluntarily left the house, and that she gave a statement to the police only at their instigation and as instructed by them. She further stated that the girl is now married and settled. Similarly, the evidence of P.W.2, the victim girl, reveals that she had an affair with the accused; they eloped, travelled towards Malai, got married, and stayed in a hotel. Thus, the evidence indicates that the relationship was consensual, but this aspect was not properly appreciated by the Court below.

7. To attract the ingredients of the offences under Sections 4 and 6 of the POCSO Act, the essential requirements of law are not satisfied in the present case. Therefore, the prosecution has failed to prove the case beyond reasonable doubt. However, considering the mental agony caused to the victim and her family, the petitioner is directed to pay a sum of Rs.50,000/- to the victim girl within a period of six weeks.

8. Accordingly, the accused is acquitted of all the charges.



9. In view of the above, this Criminal Revision is allowed.

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26-11-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1.State Rep By

Inspector of Police, Mudaliarpur Police
Station, Puducherry. Cr.NO. 145/2016.

2.The Special Court under the POCSO
Act, 2012, Puducherry.



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T.V.THAMILSELVI J.
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