



Crl.A.No.1025 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated : 23.07.2025

CORAM

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

Crl.A.No.1025 of 2025
and
Crl.M.P.No.14226 of 2025

Manikandan

..... Appellant

Vs

State Rep. by
The Inspector of Police,
Tiruvannamalai Taluk Police Station,
Tiruvannamalai District.

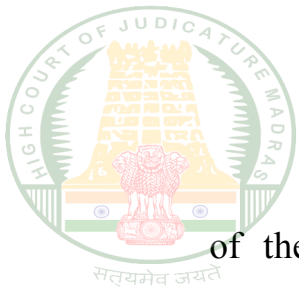
..... Respondent

Prayer: Criminal Appeal filed under Section 415(2) of the Bharatiya
Nagarik Suraksha Sanhita, 2023, praying to set aside the order dated
17.06.2025 made in Spl.S.C.No.164 of 2019 on the file of the Court of
the Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court),
Tiruvannamalai.

For Appellant : Mr.C.Sivanesan
For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

JUDGMENT

This Criminal Appeal has been preferred as against the
Judgment dated 17.06.2025 passed in Spl.S.C.No.164 of 2019 on the file

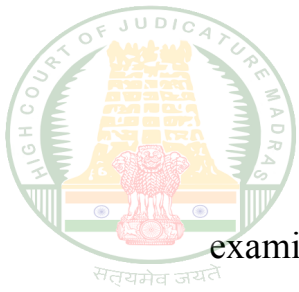


of the Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Tiruvannamalai, thereby convicted the appellant for the offences punishable under Section 366 of IPC and Section 4 of the Protection of Children from Sexual Offences Act 2012.

2. The case of the prosecution is that, on 18.06.2018 at about 9.00 a.m., when the minor victim had returned from Pualkadu Jalli Machine, the accused enticed her on the pretext of love affair and marriage. Thereafter, the accused kidnapped the victim girl and took her to Sathanur Dam, then to Tirupathi and finally, to Kiliyur. Subsequently, on the pretext of marriage, he compelled the victim to have repeated sexual intercourse with him forcibly.

3. Based on the complaint, the respondent registered an FIR in Crime No.957 of 2018 for the offences punishable under Sections 366(A), 376, 376(2)(n) of IPC and Sections 2, 4 and 6 of the Protection of Children from Sexual Offences Act 2012. After completion of the investigation, a final report was filed and the same was taken cognizance by the Trial Court in Spl.S.C.No.164 of 2019.

4. In order to bring home the charges, the prosecution had



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examined P.Ws.1 to 12 and marked Exs.P1 to P13. On the side of the accused, no witnesses were examined and no documents were marked.

5. On perusal of the oral and documentary evidence, the Trial Court found the appellant guilty of the offence punishable under Section 366 of IPC and sentenced him to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of three months. The Trial Court further convicted him for the offence punishable under Section 4 of the Protection of Children from Sexual Offences Act 2012 and sentenced him to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of three months. Aggrieved by the said conviction and sentence, the present Criminal Appeal has been filed.

6. The learned counsel appearing for the appellant would submit that the victim girl was aged about 17 years and 6 months at the time of the alleged occurrence. The father of the victim was examined as P.W.1, the victim was examined as P.W.2 and the mother of the victim was examined as P.W.3. Though the victim, in her chief examination,



deposed that she fell in love with the appellant and eloped with him, and that during the period of their stay, they had physical relationship, she subsequently turned hostile in her further examination and deposed that she was not kidnapped by anyone and that she was not sexually assaulted by the appellant herein. Likewise, P.Ws.1 and 3 also deposed that their daughter was neither kidnapped by anyone nor subjected to any sexual assault. Without considering these facts, the Trial Court mechanically convicted the appellant.

7. The learned Additional Public Prosecutor appearing for the respondent would submit that, though the victim girl and her parents turned hostile during further examination, the victim girl had categorically stated in her statement recorded under Section 164 of Cr.P.C. that the appellant had kidnapped her when she was a minor and had subjected her to penetrative sexual assault on more than five occasions. Therefore, the Trial Court rightly convicted the appellant and that the conviction does not warrant any interference of this Court.

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



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9. A perusal of the records reveals that the complaint was

initially lodged alleging that the minor victim girl did not return home after completion of her work. Subsequently, it was altered to the effect that the appellant kidnapped her and committed penetrative sexual assault on the pretext of marriage. Admittedly, the victim girl fell in love with the appellant, and thereafter both of them eloped. On the pretext of marriage, they had physical relationship. It is not the case of the prosecution that the appellant had forcible sexual intercourse with the victim girl. The statement of the victim recorded under Section 164 of Cr.P.C. was marked as Ex.P2.

10. A perusal of the statement recorded under Section 164 of Cr.P.C. reveals that the victim girl fell in love with the appellant and eloped with him and that in several places they had physical relationship. However, during her deposition, she deposed that she was not kidnapped by the appellant at any point of time and they had no physical relationship. Due to some quarrel between her parents, she had gone to her friend's house for some period and thereafter returned home on her own. The parents of the victim, who were examined as P.Ws.1 and 3, also deposed that the victim girl went to her friend's house and thereafter,



returned home on her own and that there was no sexual assault by the appellant. After securing the victim girl, she was subjected for medical examination. The Doctor, who examined the victim girl, was examined as P.W.8 and she deposed that the hymen was not intact and there was no possibility for physical relationship. However, there was no injury on her genitalia. Therefore, the prosecution miserably failed to prove the charges against the appellant and even then the Trial Court mechanically convicted the appellant. Hence, the entire conviction and sentence imposed on the appellant cannot be sustained and are liable to be set aside.

11. In view of the above, the Judgment dated 17.06.2025 passed in Spl.S.C.No.164 of 2019 on the file of the Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Tiruvannamalai, is hereby set aside. The appellant is acquitted of all charges under Section 366 of IPC and Section 4 of the Protection of Children from Sexual Offences Act 2012.

12. The appellant/accused is directed to be set at liberty forthwith, unless his custody is otherwise required in connection with any



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other case. The fine amount, if any paid, shall be refunded to the
appellant forthwith. The bail bond, if any executed, shall stand cancelled.

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

Consequently, connected miscellaneous petition is closed.

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(2/2)

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

To

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



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G.K.ILANTHIRAIYAN, J.

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2. The Inspector of Police,
Tiruvannamalai Taluk Police Station,
Tiruvannamalai District.

3. The Superintendent,
Central Prison,
Vellore.

4. The Public Prosecutor,
High Court, Madras.

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