

CrI. A.No.1171of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 07.08.2025

CORAM:

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

CrI. A.No.1171 of 2025 &
CrI.M.P. No.15104 of 2025

Parthiban

...Appellant

Vs.

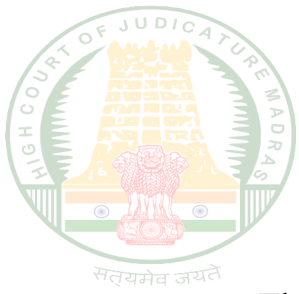
The State rep. By
The Inspector of Police
Thiruvannamalai East Police Station,
Thiruvannamalai District
Crime No.284 of 2017

...Respondent

PRAYER: Criminal Appeal filed under Section 374 of Cr.P.C., to call for the records in Spl.S.C.No.92 of 2019 on the file of the learned Sessions Judge, Mangalir Neethi Mandram (Fast Track Mahila Court) Thiruvannamalai and set aside the judgement and order of conviction dated 30.06.2025 against the appellant/accused and thereby allow the appeal.

For Appellant : Mr.T.Shanmugam

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



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J U D G M E N T

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This Criminal Appeal has been preferred as against the Judgment in Spl.S.C.No.92 of 2019 on the file of the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court) Tiruvannamalai dated 30.06.2025 thereby convicted the appellant for offence punishable under Section 366 of IPC and Section 6 of Protection of Children from Sexual Offence Act.

2. The case of the prosecution is that when the victim girl was studying XI standard, on 28.04.2017, at about 16.30 hrs, the accused enticed the victim girl that he is in love with her and kidnapped her in his two wheeler and thereafter, he had sexual intercourse with her. The victim girl has stayed at Dharma's house at Tambaram from 29.04.2017 to 02.05.2017 and there also the accused had committed sexual intercourse repeatedly with the victim girl. Initially girl missing complaint was lodged and thereafter, FIR was registered in Crime No.284 of 2017, subsequently, the offences were altered into Section 366 of IPC and Section 6 of POCSO Act. After completion of investigation, the repondent filed final report and the same has been taken cognizance by the trial court. In order to bring the charges to home, the prosecution examined witnesses P.W.1 to P.W.17 and marked documents as exhibits Ex.P.1 to P.12 and on the side of the appellant, no one was examined and no documents were



marked. On perusal of the evidence and after full fledged trial, the trial court

found the appellant guilty for the offence punishable under Section 366 IPC and is convicted and sentenced to undergo five years of rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo three months simple imprisonment. The appellant was also convicted for offence punishable under Section 6 of POCSO Act and sentenced to undergo ten years rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for three months. Aggrieved by the same, the present Appeal is filed.

3. The learned counsel for the appellant contends that the prosecution examined the victim girl as P.W.2 and she turned hostile, more importantly statement under Section 164 of Cr.P.C., did not support the case of the prosecution, only on the strength of the statement recorded under Section 161(3) of Cr.P.C., the trial court mechanically convicted the appellant. Further, the evidence of the Doctor, who examined the victim girl did not support the case of the prosecution, therefore, the order passed by the trial court is liable to be set aside.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that though the victim girl returned safely admittedly, she was



only 16 years old when she was kidnapped by the appellant herein. The

appellant committed penetrative sexual assault on the victim. Though the victim girl fell in love with the appellant, she was aged 16 years at the time of occurrence and after knowing the age of the victim girl, the appellant committed penetrative sexual assault on the victim and rightly the trial court convicted the appellant and the same does not require any interference from this Court.

5. Heard the learned counsel on either side and perused the documents placed on record carefully.

6. It is pertinent to point out that the father of the victim girl was examined as P.W.1 and he deposed that his daughter is missing from 28.04.2017, therefore, he lodged a complaint on 29.04.2017 and the same was registered under girl missing subsequently, he came to understand that the appellant kidnapped the victim girl and also had penetrative sexual assault on her. The victim girl was examined as P.W.2, she turned hostile and she deposed that she went to her relative's house without informing to her parents, therefore, her father lodged a complaint under girl missing and she was never kidnapped by the appellant and there was no sexual intercourse with him. Immediately after securing the victim girl, her statement was recorded under Section 164 of



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Cr.P.C., before the learned Magistrate. On perusal of the said statement, it

reveals that she did not disclose anything about the appellant before the learned Magistrate. Hence the statement recorded under Section 164 of Cr.P.C., being first document, has not supported the case of the prosecution. All the other witnesses are only hearsay witness and it cannot be the basis for conviction.

7. Further, after rescuing the victim, she was subjected for medical examination before the Doctor, viz., P.W.12 and the said Doctor deposed that the victim girl stated before her that she got married and had sexual intercourse. On examination, the Doctor did not find any injury on victim's entire body including genitalia part. Therefore, the medical report also did not support the case of the prosecution and there is absolutely no basis for conviction. Even then, the trial court mechanically convicted the appellant. Hence this Court is inclined to set aside the order passed by the trial court.

8. Accordingly, this Criminal Appeal is allowed and the conviction and sentence imposed by the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Tiruvannamalai in Spl.SC No.92 of 2019 dated 30.06.2025 for the offence under Section 366 of IPC and Section 6 of POCSO Act are hereby set aside. The appellant is acquitted of all charges in Spl.SC No.92 of 2019 on the file of the learned Sessions Judge, Magalir



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Neethimandram (Fast Track Mahila Court), Tiruvannamalai. Fine amount, if

any paid, shall be refunded to the appellant forthwith. Bail bonds, if any executed, shall stand cancelled. Consequently, connected miscellaneous petition is closed.

07.08.2025

Index : Yes / No
Internet : Yes / No
Speaking Order / Non Speaking Order
ssd

To

1.The Sessions Judge, Mangalir Neethi Mandram
(Fast Track Mahila Court) Thiruvannamalai,

2. The State rep. By
The Inspector of Police
Thiruvannamalai East Police Station,
Thiruvannamalai District

3. The Public Prosecutor,
High court, Madras



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G.K.ILANTHIRAIYAN, J.

ssd

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