



Crl.A.No.701 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.701 of 2021

Anand

.. Appellant

Vs

The Union Territory of Puducherry
Rep by
The Station House Officer
D Nagar Police Station,
Puducherry,
(Crime No.23 of 2019)

.. Respondent

Prayer: Criminal Appeal filed under Section 374 of Cr.P.C. to set aside the conviction and sentence passed by learned Special Judge, Puducherry in Spl.S.C.No.2 of 2020 dated 20.10.2021.

For Appellant : Mr.A.Kripakaran

For Respondent : Mr.M.V.Ramachandramurthy
Public Prosecutor
[Puducherry]



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JUDGMENT

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The appellant / accused, in Special No. 2 of 2020 convicted by the trial Court by judgment dated 20.10.2021 for offence punishable under Section 363 IPC and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default of payment of fine, to undergo a further period of six months simple imprisonment, has filed the present appeal.

2. The case of the prosecution is that, at the time of occurrence, the victim girl / PW2 is a minor, aged about 16 years. The victim was attending college and also doing part time job in Auro Star Super Market, VVP Nagar, Puducherry. The appellant is also employed there, wherein the appellant had compelled the victim to have a love affair, which initially the victim refused, but later, they developed liking towards each other.

3. On 01.02.2019, the victim girl had not returned home. Hence, PW1/father of the victim had enquired with the employer / PW6, who informed that his daughter complained of some discomfort and left the shop at about 8 p.m. Thereafter, PW1 made a search with other persons/relatives in the nearby vicinity. Unable to trace his daughter, victim's father lodged a complaint with PW8,



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who received the complaint, which is marked as Ex.P1 and registered a case in Crime No. 23 of 2019 for the offence punishable under Section 363 IPC for 'girl missing'.

4. In the meanwhile, the motorbike of the appellant was found abandoned in front of PW6/shop, from which, copy of RC book was taken out, address of the appellant was collected and an enquiry was made with his parents, who informed that the appellant had not returned home. PW1 informed his cousin about missing of his daughter. PW4 and PW5 collected the address of the appellant's family members and gone to Karaikal, where they found the victim and the appellant and they were brought back home.

5. PW9, the Investigating Officer, who took the investigation, prepared Ex.P4, the Crime Details Form, examined the victim in presence of PW7, parents of victim and others, produced the victim before the Magistrate for recording Sec. 164 Cr.P.C., statement, marked as Ex.P2, recorded a finding that the victim is a minor; and thereafter, an alteration report, including offence under Section 8 of the POCSO Act filed and, after the conclusion of the investigation, the charge-sheet was filed.

6. During trial, PW1 to PW9 were examined, Exs.P1 to P8



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were marked. On conclusion of trial, the trial Court acquitted the accused / appellant herein for the offence under Section 8 of the POCSO Act but convicted him for the offence under Section 363 IPC.

7. Learned counsel appearing for the appellant submitted that, in this case, the victim, in her 164 statement / Ex.P2 and in her evidence before the trial Court, clearly stated that she and appellant were in love with each other and both had voluntarily left the shop about 8 p.m., and had gone to Cuddalore and from there, they proceeded to Mayiladuthurai. It is to be noted that 16kms before Mayiladuthurai, they got down and they had gone to an old lady's house and informed that they missed the bus and stayed there for a night and thereafter they had gone to Karaikal. The next day, the appellant's brother informed about the police complaint, PW4 and PW5 had gone there and thereafter, the victim girl handed over to her parents. Thus, it is seen from the evidence of the victim girl that, there was no abduction or inducement from the appellant. Further, the victim girl joined him voluntarily and hence the offence under Section 361 IPC would not arise.

8. Learned counsel for the appellant submitted that, in this case, the victim had refused to undergo medical examination. Further, the victim had not stated about the appellant making any



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physical touch on her and hence the trial Court had acquitted the appellant and sentenced him for the offence under the POCSO Act. He further submitted that, the evidence of PW1, PW3, PW4, PW5 and PW6 are contradictory to each other. PW1 gives exaggerated version stating that when he went in search of his daughter, he enquired the appellant's wife and came to know that the appellant was also found missing. In his evidence, PW4 informed that he had gone to the house of the appellant, enquired the details of the appellant and does not whisper anything about the appellant's wife.

9. Further, in this case, PW5's evidence is that appellant's parents informed that the appellant would have gone to his grandmother's place at Karaikal. The evidence of PW5 is that the appellant and the victim had come to Karaikal bus stand, from there the victim had gone to her parents house.

10. On the other hand, the evidence of PW5 is that when appellant, victim, PW4 and PW5 were travelling from Karaikal to Puducherry, on the way, the parents of the victim came in a car and they had taken the victim with them. Thus, there have been vital contradictions in the evidence adduced. But one thing is certain that there is no forcible abduction or inducement by the appellant. To support his contentions, learned counsel for the appellant placed



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reliance on the following decisions:-

- (i) *Rajesh @ Karuppusamy v The State, Rep. By Inspector of Police, All Women Police Station, Palladam, Coimbatore District* [Crl.A.No.387 of 2009 dated 17.12.2018];
- (ii) *Vijayakumar v State, rep. By Inspector of Police, Rasipuram Police Station, Namakkal District* [Crl.A.No. 635 of 2018 dated 27.06.2019]; and
- (iii) *R.Gokul v The State, Rep. By the Deputy Superintendent of Police, Namakkal A WPS, Namakkal District* [Crl.A.No.104 of 2021 dated 04.03.2021].

11. Per contra, learned Public Prosecutor (Puducherry) opposed the contentions advanced by the learned counsel for the appellant and submitted that, at the time of incident, victim was a minor, is not in dispute. The date of birth of the victim is 08.02.2002, which is proved by Ex.P7 / birth certificate. The victim's father / PW1, finding that his daughter not returned home after the work, had called the PW6/employer and enquired about his daughter, who informed that at about 8 pm, she had left the workplace, complaining of illness. Thereafter, PW1 made a search



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for her and finds that his daughter is missing, lodged a complaint with PW8, who registered the case for 'girl missing' in Crime No. 23 of 2019 / Ex.P5.

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12. Learned Public Prosecutor (Puducherry) would further submit that PW4 was informed about the missing of the victim. PW4 along with PW5 gone to the house of the appellant, enquired the parents and was informed by them that the appellant might have gone to his grandmother's place at Karaikal. Thereafter, PW4 gone to Karaikal, the appellant and the victim were traced and they were brought back and thereafter, the victim had joined her parents.

13. In the present case, the statement of victim was recorded as PW7 and the victim was produced before the Magistrate and gave 161 statement / Ex.P2 and Crime Details Form / Exs.P3 and P4, prepared, finding that the victim is a minor girl and she had been forcibly abducted by the appellant and upon conclusion of the investigation, charge-sheet has been filed.

14. Before trial Court, PW1, PW3, parents of the victim, PW2 the victim, PW4 and PW5, cousins of PW1 and PW6, employer of the victim all supported the case of the prosecution. It is not in dispute that that the victim was found missing from 02.01.2019 and,



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thereafter, she had been found in Karaikal. PW2, the victim in her 161 statement and in her evidence before Magistrate confirms that she was with the appellant during the missing period. The trial Court finding that there is no case of POCSO, charged him for the offence of abduction of minor girl. In support of his contention, learned Public Prosecutor (Puducherry) relied upon the judgment in the case of *Prakash v State of Haryana* reported in (2004) 1 CC 339.

15. Considering the submissions made and based on the materials, it is seen that, in this case, the victim / PW2 is a minor, at the time of incident, is not in dispute. The victim and the appellant were employed in the shop of PW6 as Saleswoman and Salesman. On 01.02.2019, the victim had informed her employer that she was not feeling well and left the shop even before the closing hours. The victim father / PW1 finding that his daughter had not returned home, enquired PW6 and later came to know that both the victim and the appellant were found missing; PW1 lodged a complaint for 'girl missing' with PW8.

16. The case projected by the prosecution is that motorbike of the appellant was found abandoned in front of the shop and from that, the address of the appellant was found, enquiry made and



later PW4, PW5 travelled to Karaikal and from where, the victim and the appellant were found.

17. From the submission of PW2, both in her 161 Statement and before the trial Court, it is seen that the victim narrates both herself and the appellant had gone to Puducherry by bus, from there to Cuddalore and from there to Mayiladuthurai. On the way, 16 kms before reaching Mayiladuthurai, both got down and stayed for a night in a old lady's house and thereafter, they had gone to Karaikal. From her narration of entire travelling and the stay at Karaikal, it is seen that, there was no inducement or forcible abduction by the appellant. Further, the love affair between the victim and the appellant, is not seriously disputed.

18. Though, the learned Public Prosecutor (Puducherry) submits that the appellant is a married man and on a false promise of marriage, he had abducted the victim girl, marriage is highly doubtful for the reason that PW1 in his evidence states that he went to the house of the appellant, where he met the appellant's parents. On the other hand, PW5 confirms that he went to the appellant's house and enquired appellant parents. Nothing about meeting appellant wife.



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19. Likewise, the origination of the case against the appellant

is that he had abandoned the bike in front of the shop. In this case, the bike has not seized and not marked before the trial Court.

Likewise, the confession of the accused / appellant is also not produced as document. The entire narration of the events by the victim / PW2, PW4 and PW5 confirms that, there is no forcible inducement or abduction by the appellant. The voluntary love affair confirmed by PW2. In view of the above, this Court is inclined to set aside the conviction and sentence imposed on the appellant.

20. In the result, the Criminal Appeal is allowed, setting aside the judgment of the trial Court, dated 20.10.2021 in Spl. S.C.No. 2 of 2020. No costs. The appellant/accused is acquitted of all the charges levelled against him.

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Index : Yes/No
Neutral Citation: Yes/No
ssm



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To

- 1.The Station House Officer,
The Union Territory of Puducherry,
D Nagar Police Station,
Puducherry,
- 2.The Special Judge,
Puducherry.
- 3.The Public Prosecutor,
Puducherry.



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M.NIRMAL KUMAR, J.

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