

Crl.A.No.1244 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated: 14.08.2025

CORAM:

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl. A.No.1244 of 2025 &
Crl.M.P. No.15606 of 2025

Vijay @ Jayamoorthy

...Appellant

Vs.

The State rep. By
The Inspector of Police
All Women Police Station,
Villupuram District
Crime No.2 of 2022

...Respondent

PRAYER: Criminal Appeal filed under Section 415 (2) of BNSS, 2023 to set aside the conviction and sentence against the appellant in Spl.S.C.No.154 of 2022 passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram dated 18.07.2025 and allow this appeal.

For Appellant : Ms.R.Raji

For Respondent: Mr.S.Rajakumar
Additional Public Prosecutor



CrI.A.No.1244 of 2025

WEB COPY

J U D G M E N T

This Criminal Appeal has been preferred as against the Judgment in Spl.S.C.No.154 of 2022 on the file of the learned Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram dated 18.07.2025 thereby convicted the appellant for offence punishable under Section 6 of Protection of Children from Sexual Offence Act and Sections 342 and 450 of IPC.

2. The case of the prosecution is that when the victim girl was aged about 17 ½ years, while she was in the house, the accused, who used to borrow grocery items, on 05.05.2021, when the victim was alone in her house, the accused expressed his love affair and committed penetrative sexual assault on her several times and thereafter, she got pregnant and lodged a complaint. On receipt of the complaint, the respondent registered the FIR in Crime No.2 of 2022 for offences punishable under Sections 342 and 450 of IPC and Section 5(l)(j) (ii) r/w Section 6 of POCSO Act. After completion of investigation, the prosecution filed final report and in order to bring the charges to home, the prosecution had examined witnesses P.W.1 to P.W.16 and marked Exhibits Ex.P.1 to P.15 . On the side of the accused, no one was examined and no documents were marked. The trial court marked Ex.C.1, DNA report dated

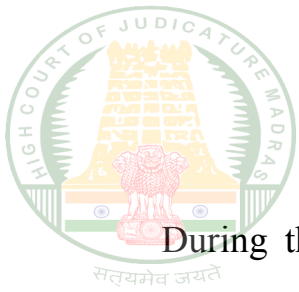


10.11.2022. On perusal of the entire oral and documentary evidence, the trial

WEB COPY

court found the appellant guilty for offence punishable under Section 6 of POCSO Act and sentenced him to undergo 20 Years rigorous imprisonment and to pay a fine of Rs.10,000/- and in default of payment of fine, ordered to undergo 6 months simple imprisonment. The appellant was also convicted under Section 450 of IPC and sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.5,000/- in default of payment of fine, ordered to undergo 6 months simple imprisonment. Further, the appellant was also convicted for offence under Section 342 of IPC and sentenced him to undergo rigorous imprisonment for a period of one year and sentences were ordered to run concurrently. Aggrieved by the same, the present appeal has been filed.

3. The learned counsel for the appellant would submit that the victim was examined as P.W.1 and even her evidence did not support the case of the prosecution and she had stated that she was committed with three persons. Though she fell in love with the appellant, she delivered a baby through another person, viz., one Rajesh. It was categorically admitted by her in the cross examination. The mother of the victim girl was examined as P.W.2 and her evidence also did not support the case of the prosecution and turned hostile.

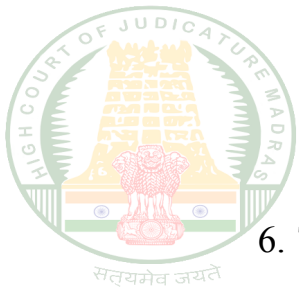


WEB COPY

During the investigation, the victim girl delivered a baby and subjected for DNA test. According to the DNA test, the appellant is not the biological father of the child. The victim was subjected for medical examination and there was no injury on her entire body. Therefore, the prosecution miserably failed to prove any charge, even then, the trial court mechanically convicted the appellant, thereby pleaded to allow the present appeal.

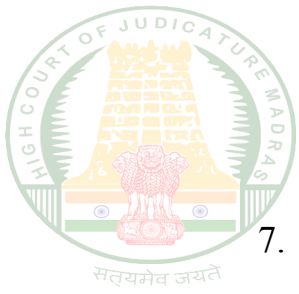
4. Per contra, the learned Additional Public Prosecutor appearing for the respondent would submit that the appellant had committed penetrative sexual assault on the victim on the pretext of marriage and the appellant committed the said offence on several occasions and the victim girl became pregnant and also delivered a baby. Since the victim girl got pregnant at the time of her medical examination, there was no opinion with regard to sexual assault by the Doctor. Therefore, the prosecution proved the charges beyond any doubt and the trial court rightly convicted the appellant and it does not warrant any interference by this Court, thereby pleaded to dismiss the appeal.

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



6. The appellant used to visit the house of the victim and the victim also

used to visit appellant's house on exchange of some grocery items. The victim was aged about 17 ½ years at the time of alleged occurrence. According to the victim, while she was alone in her house, on 05.05.2021, the appellant went into her house and asked for some grocery item. While so, they fell in love and they had sexual intercourse, therefore, the victim girl became pregnant and lodged a complaint. In her cross examination, she deposed that she fell in love with one Ajith, in fact, she also eloped with him for some time. Therefore, her brother lodged a complaint before the police station and on the said complaint, Ajith was secured and thereafter, both were let out, since they settled the issue amicably. Likewise, she eloped two times with different persons. In fact, she also fell in love with one Rajesh and after delivering the baby, the said Rajesh claimed the baby. When the court posed a question to the victim she stated that Rajesh came to her house only to take the baby for his custody. After delivering the baby, the baby and the victim was subjected for DNA test. The DNA Test report was marked as Ex.C.1, it revealed that the alleged father, viz., appellant herein is excluded from the paternity of female child. Therefore, it is clear that the DNA test has not supported the case of the prosecution.

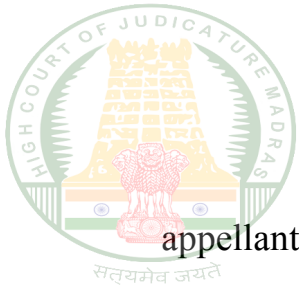


CrI.A.No.1244 of 2025

7. The mother of the victim was examined as P.W.2 and she turned

hostile and she did not whisper about any overt act as against the appellant herein and except P.W.1, none had deposed about the alleged occurrence. After the lodgment of the complaint, the victim girl was subjected for medical examination and the medical report was marked as Ex.P.9 and the Doctor was examined as P.W.11. She deposed that the victim did not sustain injury on her genitalia and on other part of her body and she was pregnant. Therefore, the prosecution miserably failed to prove any charge as against the appellant. Even then the trial court mechanically convicted the appellant and as such, the same cannot be sustained and liable to be set aside.

Accordingly, this Criminal Appeal is allowed and the conviction and sentence imposed by the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Villupuram in Spl.SC No.154 of 2022 dated 18.07.2025 for the offence under under Section 6 of Protection of Children from Sexual Offence Act and Sections 342 and 450 of IPC are hereby set aside. The appellant is acquitted of all charges in Spl.SC No.154 of 2022 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Villupuram. Fine amount, if any paid, shall be refunded to the



CrI.A.No.1244 of 2025

appellant forthwith. Bail bonds, if any executed, shall stand cancelled.

WEB COPY Consequently, connected miscellaneous petition is closed.

14.08.2025

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

ssd

To

1. The Sessions Judge, Special Court for
Exclusive Trial of Cases under POCSO act, Villupuram

2. The State rep. By
The Inspector of Police
All Women Police Station,
Villupuram District

3. The Public Prosecutor,
High court, Madras



WEB COPY



Crl.A.No.1244 of 2025

G.K.ILANTHIRAIYAN, J.

ssd

Crl.A.No.1244 of 2025

14.08.2025