



Crl.A.No.1547 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2025

CORAM

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

Crl.A.No.1547 of 2024
and Crl.M.P.No.17611 of 2024

S.Charles Singh

... Appellant

Vs

1. The State Rep. By,
The Inspector of Police,
All Women Police Station,
Perur, Coimbatore,
Coimbatore.

2. R.Sathya

...Respondents

PRAYER : Criminal Appeal has been filed under Section 415(2) of BNSS, 2023, to set aside the order of conviction passed by the judgment in Special. S.C.No.107 of 2024 passed by the II Additional District Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court at by judgment dated 07.11.2024 and acquit the appellant/accused.

For Appellant	: Mr.G.Rajesh for Mr.T.Elumalai
For R1	: Mr.S.Raja Kumar Additional Public Prosecutor
For R2	: No appearance



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JUDGMENT

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This Criminal Appeal has been filed as against the judgment in Special.S.C.No.107 of 2024 dated 07.11.2024 passed by the II Additional District Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Tiruppur, thereby convicting the appellant for the offences punishable under Section 5(p) read with Section 6, Section 5(l) read with Section 6, Section 5(n) read with Section 6 of POCSO Act.

2. The case of the prosecution is that the minor victim girl aged about 17 years was engaged and taken care of the accused as house maid in his house. Utilizing the said circumstances and her poverty, on 16.06.2020, the accused came to her bed and misbehaved with her by touching her breast and also private part. Hence, the complaint.

3. On receipt of the complaint, the respondent registered FIR in Crime No.7 of 2020 for the offences punishable under Sections 5(l)(n) and 6 of POCSO Act. After completion of investigation, final report was filed and the same was taken cognizance by the Trial Court in Special.S.C.No.107 of 2024 for the offences punishable under Sections 5(l), 5(n), 6, 5(p) and 17 of POCSO Act, Section 367 of IPC, Section 75 of Juvenile Justice (Care and Protection of



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Children) Act, 2015 and Sections 3(1)(w)(i), 3(2)(va) of SC/ST (Prevention of Atrocities) Act, 1989.

4. In order to bring home the charges, the prosecution had examined PWs.1 to 10 and marked Exs.P1 to 14. The Court document was marked as Ex.C1. On the side of the accused, no one was examined and no document was marked. On perusal of oral and documentary evidence, the Trial Court found the accused guilty for the offences punishable under Section 5(p) read with Section 6 of POCSO Act and sentenced him to undergo 20 years rigorous imprisonment and also imposed fine of Rs.1,000/-, in default, to undergo six months simple imprisonment. He was also convicted for the offence punishable under Section 3(1)(w)(i) of SC/ST Act and sentenced him to undergo two years rigorous imprisonment and also imposed fine of Rs.1,000/-, in default, to undergo six months rigorous imprisonment. Aggrieved by the same, the present appeal.

5. The learned counsel for the appellant would submit that the victim did not even state anything in her complaint and her statement recorded under Section 164 of Cr.P.C about the penetrative sexual assault against the appellant. Only in her deposition, she deposed that the appellant had committed sexual assault on her. She further deposed that she was tutored by her brother and



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others with those allegations. Though the victim was subjected for medical examination, it did not support the case of the prosecution. There was no injury or any evidence to show that the victim girl was subjected for penetrative sexual assault. He further submitted that there was delay in lodgment of complaint. The alleged occurrence took place on 16/17.06.2020. But the complaint was lodged only on 21.06.2020. There was no explanation for the delay in lodgment of complaint. The medical examination report also did not support the case of the prosecution, since the old hymen tear noted and there is no evidence of any foreign body or injuries anywhere in the body of the victim. In fact, the Doctor who examined the victim girl was not examined by the prosecution. Even then, the Trial Court mechanically convicted the appellant.

6. Per contra, the learned Additional Public Prosecutor appearing for the respondent Police would submit that, though there was delay in five days in lodging the complaint, it is not a material for sexual offence. The victim girl was employed as house maid in the house of the appellant. She escaped from the clutches of the appellant and thereafter, lodged a complaint. Though the Doctor, who examined the victim girl did not depose before the Trial Court, the medical report was marked before the Trial Court. The victim's hymen was not intact. Further, it cannot be ruled out that the victim girl was subjected for



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sexual assault. The victim girl was examined as PW.1. She categorically deposed about the overtact of the appellant and as such, the prosecution had categorically proved the charges and the Trial Court had rightly convicted the appellant and it does not warrant any interference by this Court.

7. Heard the learned counsel for the appellant and the learned Additional Public Prosecutor appearing for the respondent Police and perused the material available on record. There is no representation on behalf of the second respondent.

8. The victim girl was aged about 17 years and 10 months at the time of the alleged occurrence. She was employed as a servant maid in the house of the appellant. While being so, on 16.06.2020, the appellant came to her bed, touched her breast and he inserted his finger into her finger part. A perusal of her complaint which was marked as Ex.P1, dated 21.06.2020 revealed that on 16.06.2020, while she was sleeping with another person viz., Jothi, the appellant came to her bed and touched her breast. He also inserted his finger into her private part. Next day, on 17.06.2020 also he did the same thing. Therefore, on 18.06.2020, she escaped from the house of the appellant and through one person she was brought to the office of the Village Administrative Officer. On the



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advise of the Village Administrative Officer, the victim lodged a complaint on

21.06.2020. The victim was examined as PW.1. In her deposition, she completely improved the version stating that the appellant had committed penetrative sexual assault on her on 16.06.2020 and also on 17.06.2020. She also admitted that she was tutored by the person who brought her before the Village Administrative Officer for giving evidence. In fact, the prosecution had marked the statement recorded under Section 164(5) of Cr.P.C and marked as Ex.C1. It shows that the victim girl completely improved her version during her deposition before the Trial Court. Even on the date of the registration, the victim girl was not subjected for medical examination. She was produced before the Doctor only on 22.06.2020.

9. A perusal of the doctor's report revealed that there was no evidence of any recent forcible vaginal sexual Act. Further, if suggested it cannot be ruled out. It was further noted that vulval swap and smear did not detect any spermatozoa. Healed hymen tear was noted. There is no evidence of any foreign body or injuries noted anywhere in the body of the victim. However, the Doctor, who examined the victim girl failed to depose before the Trial Court, since the Medical Certificate and Final Medical Opinion which were marked as Exs.P13 and P14 did not support the case of the prosecution. Therefore, the medical



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witness did not support the case of the prosecution. The person who slept along with the victim viz., Jothi was not examined. This Court can initially visualize that when the victim was initially sleeping with the said Jothi, the appellant came and committed penetrative sexual assault that too without the knowledge of the person who was sleeping next to the victim. The prosecution did not even examine the said Jothi during the investigation. Further, the victim was brought before the Village Administrative Officer who had instructed to lodge a complaint. But the prosecution failed to examine the said Village Administrative Officer before the Trial Court. Though the delay is not a matter in the sexual offence, in over all circumstances, the delay is a matter in this case, since the occurrence took place on 16/17.06.2020 and the victim girl came out from the house of the appellant on 18.06.2020 and even then, the complaint was lodged only on 21.06.2020. Therefore, except the victim, there is no other evidence to corroborate the evidence of the victim to prove the charges. Therefore, in over all circumstances, the prosecution failed to prove the charges under the POCSO Act.

10. Insofar as the offence under the SC/ST Act is concerned, admittedly, the appellant belongs to SC community. However, he was subsequently converted into a Christian and followed Christianity. Further, the



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prosecution did not produce any document for his conversion, since though the appellant followed Christianity, he did not convert into a Christian in accordance with any procedure. Therefore, the offence under Section 3(1)(w)(i) of SC/ST Act is not at all attracted as against the appellant.

11. In criminal jurisprudence, the burden is always on the prosecution to prove its case beyond reasonable doubt. When two views are possible and the one favourable to the accused is equally plausible, the benefit of doubt must necessarily go to the accused. In the present case, the prosecution has failed to discharge its burden convincingly, and the trial Court failed to properly appreciate the infirmities in the prosecution case. Therefore, the conviction and sentence awarded by the trial Court cannot be sustained and is liable to be set aside.

12. Accordingly, the Judgment passed in Special.S.C.No.107 of 2024 dated 07.11.2024 passed by the II Additional District Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Tiruppur, is hereby set aside. The appellant is acquitted from all charges in Special.S.C.No.107 of 2024. The appellant is directed to be set at liberty forthwith unless his custody is otherwise required in connection with any other case. The fine amount, if any, paid by the appellant shall be refunded. Bail bond, if any, executed by the appellant shall



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stand cancelled.

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13. In the result, this Criminal Appeal is allowed. Consequently,
connected Miscellaneous petition is closed.

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Speaking order/Non-speaking order

Index :Yes/No

Internet :Yes/No

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G.K.ILANTHIRAIYAN, J.

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To

1. The II Additional District Sessions Judge, Mahalir Neethimandram,
Fast Track Mahila Court, Tiruppur.
2. The Inspector of Police,
All Women Police Station,
Perur, Coimbatore,
Coimbatore.
3. The Superintendent of Prison,
Central Prison, Coimbatore.
4. The Public Prosecutor,
High Court, Madras.

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