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Crl.Appeal.No.1659 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.A.No.1659 of 2025 and Crl.M.P.No.20120 of 2025

Suresh Kumar

.. Appellant

Vs.

The State by
Inspector of Police,
All Women Police Station,
Perambalur
(Crime No.24 of 2019)

..... Respondent

Prayer: This Criminal Appeal is filed Under Section 374 of Cr.Pc.to set aside the conviction and sentence imposed on the appellant in New Spl. S.C.No. 23 of 2020 dated 07.08.2025 on the file of the learned District Sessions Judge, Mahila Court, Perambalur and set aside the same allow this appeal thereby acquitting the appellant from the charges.

For appellant : Mr.G. Ilamurugu

For Respondents : Mr. V. Meganathan

Government Advocate

JUDGMENT



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This criminal appeal is directed as against the judgment passed in New
Spl. S.C.No. 23 of 2020 dated 07.08.2025 on the file of the learned District
Sessions Judge, Mahila Court, Perambalur

2.The case of the prosecution is that the victim and the accused are neighbours and when the victim was alone in her house taking advantage of the situation the accused had sexual relationship with her on many occasions. It is stated that the appellant had held out a promise that he will marry the victim girl and had sexually assaulted her. As a result of which the victim became pregnant. On 22.12.2019 when the victim was admitted in the hospital, it is found that the 7 months foetus in the womb was died. It is pertinent to note that the accused had given mental torture to the victim girl due to which the foetus was died. On the complaint lodged by the defacto complainant, the respondent registered FIR in crime No.24 of 2019 for the offence punishable under Sections 5(1) and 5(j)(ii) r/w Section 6 of POCSO Act. After completion of investigation, the respondent filed final report and the same has been taken cognizance by the trial court in New Spl. S.C.No. 23 of 2020 on the file of the learned District Sessions Judge, Mahila Court, Perambalur .



3.On the side of the prosecution, they examined PW1 to PW23 and marked Ex.P1 to Ex.P14. No material objects has been marked on the side of the prosecution. On the side of the defence, one witness was examined as DW1 and Ex.D1 to D3 were marked. On a perusal of oral and documentary evidence, the trial court found the appellant guilty. The accused was convicted under Sections 5(1) r/w Section 6 of POCSO Act which is punishable with rigorous imprisonment for 20 years and fine of rupees fifty thousand. Section 6 of the Protection of Children from sexual offences Act, which provides for a further two years of Rigorous imprisonment if the offender did not pay. Further he was convicted under Section 5(j)(ii) r/w Section and imposed rigorous imprisonment for 20 years and a fine of Rs.50,000/- for an offence under Section 6. In default of payment of the fine the opponent shall be liable to undergo rigorous imprisonment for two years concurrently and for both the above offences shall run concurrently. The sentence is ordered to be served and the period already served by the adversary is free of charge under Section 428 and the whole fine amount is Rs.1,00,000/-. Aggrieved by the same, this criminal appeal has been filed.

4.The learned Counsel appearing for the appellant would submit that



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now the victim and the accused married and gave birth to two children and are living together as husband and wife and the eye witness except the Government witness turned hostile and even on the confession witness also clearly gave evidence that the police officials had beaten up the appellant in the bus stand and they called upon him to the police station and obtained signature which is fatal to the case of the prosecution. He further submitted that the Trial Court passed the erroneous order of conviction without application of mind and the same is liable to be set aside.

5.Per contra, the learned Government Advocate(crl.side) appearing for the respondent/police submitted that in order to prove the charge for the offence they examined PW1 to PW23 and marked Ex.P1 to Ex.P14. No material objects has been marked on the side of the prosecution. He further submitted after examining all the witness and after going through all the evidence produced the Trial Court has convicted the accused and there is no necessity to interfere with the same. Hence, prays to dismiss this petition.

6. Heard the learned counsel appearing on either side and perused the material placed before this Court.



7. Before advertng further it would be relevant to go through the Judgment passed by this Court in the similar facts of the case in ***Mahesh Mukund Patel Vs State of U.P. and others in 2025 SCC online SC 614*** and the relevant portion of the Judgment is extracted hereunder:

7. Now that the appellant and third respondent are happily married, no purpose will be served by continuing the prosecution as it will cause undue harassment to the appellant and third respondent and their children.

8. Coming to the impugned order, we find that the marriage certificate was placed on record before the High Court. In fact, no objection by the first informant is also recorded in the impugned order. Surprisingly the High Court instead of entertaining the petition for quashing on the ground of settlement, has observed that the application for dropping criminal proceedings on the basis compromise may be moved before the Trial Court. The High Court completed lost sight of the fact that the Trial Court could not have recorded the settlement and in fact, this was a fit case for the High Court to have exercised its jurisdiction under Section 482 of the Cr.P.C by quashing the proceedings. Unnecessarily, the parties have been forced to come to this Court.

8. On a perusal of records it is found that the victim girl fell in love



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with the accused and now they got married and are living together as husband and wife and two children was born to them namely Dejal and S.Kayal. The above Judgment also squarely applies to the present case.

9. In view of the above facts it is made clear that the trial Court convicted the appellant though the prosecution failed to prove the case beyond any doubt and as such, the appellant is entitled for acquittal for the offence punishable under Sections 5(1) r/w Section 6 and 5(j)(ii) r/w Section 6 of POCSO Act.

10. 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 in respect of all the charges against the appellant are liable to be set aside.

11. Accordingly, this Criminal Appeal is allowed and the conviction and



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sentence imposed in New Spl. S.C.No. 23 of 2020 on the file of the learned District Sessions Judge, Mahila Court, Perambalur on 07.08.2025 is hereby set aside. The appellant is acquitted of all charges in New Spl. S.C.No. 23 of 2020 on the file of the learned District Sessions Judge, Mahila Court, Perambalur on 07.08.2025. Consequently the connected miscellaneous petition is closed. Fine amount, if any paid, shall be refunded to the appellant forthwith. Bail bonds, if any executed, shall stand cancelled.

30.10.2025

To

1. The learned District Sessions Judge, Mahila Court, Perambalur
2. The Inspector of Police,
All Women Police Station, Perambalur



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T.V.THAMILSELVI,J.

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