



Crl.A.(MD)No.559 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.06.2025

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

Crl.A.(MD)No.559 of 2025
and Crl.M.P(MD).Nos.6399 and 6401 of 2025

S.Krishnamurthi

... Appellant/Sole Accused

vs.

State of Tamil Nadu through
The Inspector of Police,
All Women Police Station,
Karur Rural, Karur District.
(In Crime No.14/2023)

... Respondent/Complainant

Prayer : Criminal Appeal filed under Section 415 of BNSS, 2023, to call for the entire records connected to the impugned judgment in Spl.S.C.No.22 of 2024 on the file of the Additional Sessions Court (Fast Track Mahila Court), Karur, dated 27.03.2025 and set aside the same as illegal.

For Appellant : Mr.R.Ramanathasethupathi

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



Crl.A.(MD)No.559 of 2025

WEB COPY

JUDGMENT

This appeal is filed by the appellant/sole accused challenging the judgment of conviction and sentence passed by the learned Additional Sessions Judge (Fast Track Mahila Court), Karur, in Spl.S.C.No.22 of 2024, dated 27.03.2025.

2. The brief facts of the case are as under :-

(i) According to the prosecution, at the time of occurrence, the victim girl was minor and her date of birth is 11.06.2009. P.W.1, the mother of the victim child lodged a complaint stating that on 19.10.2023, at about 17.00 hours, the victim child, aged about 14 years, was walking in front of the house of Ramathal, who was residing in the opposite house of the victim girl. At that time, the accused, who came in the opposite direction of the victim girl, held the right hand of the victim child, hugged her and rubbed her both breast with the intention to commit sexual assault on her. Hence, an First Information Report was registered against the appellant in Crime No.14 of 2023 for the offences under Sections 7 and 8 of Protection of Child from Sexual Offences Act, 2012.



Crl.A.(MD)No.559 of 2025

WEB COPY

(ii) The investigation officer conducted investigation, arrested the accused, collected the materials and filed the final report against the accused for the offences under Sections 7 and 8 of the POCSO Act. The same was taken on file in Spl.S.C.No.22 of 2024.

(iii) After taking cognizance, the learned trial Judge framed the charges against the appellant for the offence under Section 8 of POCSO Act. The learned trial Judge, upon the appearance of the accused, furnished the copies to him under Section 207 of Cr.P.C., and questioned him and he denied his guilt and claimed to be tried.

(iv) In order to bring home the guilt of the accused, the prosecution has examined 11 witnesses as P.W.1 to P.W.11 and marked 8 exhibits as Ex.P.1 to Ex.P.8. On behalf of the accused, no oral and documentary evidence was let-in.

(v) The accused was examined under Section 313 of Cr.P.C., by putting the incriminating material available against him and he denied the same and accused side no witnesses was examined. Hence, the case was posted for arguments.



Crl.A.(MD)No.559 of 2025

WEB COPY

(vi) The learned trial Judge after considering the oral and documentary evidence, convicted the accused under Section 8 of POCSO Act and sentenced him to undergo three years simple imprisonment and to pay a fine of Rs1,000/- (Rupees one thousand only), in default, to undergo one month simple imprisonment and the custody period during investigation is to be set off from the punishment under Section 428 Cr.P.C. It is further ordered by the trial Judge that Rs.1 lakh shall be paid to the victim as compensation.

(vii) Aggrieved over the same, the appellant filed this appeal on the grounds stated in the memorandum of grounds of appeal.

3. The learned counsel for the appellant submitted that the witnesses are relatives to the victim child and the appellant/accused has been falsely implicated in this case, due to previous enmity between P.W.4, Ramathal and the appellant, the said Ramathal gave a false statement against the appellant. It is further submitted that the learned trial Judge without considering the essential facts has convicted the accused, which is not sustainable.



Crl.A.(MD)No.559 of 2025

WEB COPY

4. The learned Additional Public Prosecutor appearing on behalf of the State submitted that the statement of the victim child corroborates with the evidence of P.W.4 and the trial Judge has rightly convicted and sentenced the appellant/ accused and hence, it does not warrant any interference.

5. I have given my anxious consideration to the submissions made on either side and carefully perused the materials available on record.

6. The victim child was examined as P.W.3, who stated in her evidence that on 19.10.2023, after finishing the school, she went to the house of Pothumponnu. When she was walking near the house of Ramathal, P.W.4, the accused prevented her and hugged her and rubbed her breast. Immediately, she slapped the accused. On seeing this, P.W.4 came out of her house and shouted at the accused. At that time, P.W.5, who is the daughter-in-law of P.W.1's brother also came out her house and enquired about the scene. When the nearby residents assembled to the scene of occurrence and raised noise, the accused ran away from there. At that time, P.W.1 was at working place. So, P.W.5 informed the occurrence to P.W.1 through phone. Immediately, P.W.1 came back to house and enquired the



Crl.A.(MD)No.559 of 2025

victim child. Thereafter, she went to the house of the accused and shouted.

The accused did not admit and told that he just helped the child by lifting her up. Thereafter, P.W.1 has lodged a complaint on 20.10.2023 and FIR was registered in Crime No.14 of 2023 by the All Women Police Station, Karur Rural. P.W.2 is the father of the victim child, who is also hearsay witness.

7. P.W.1, who is the mother of the victim child, in her evidence has stated that the date of birth of victim child is 11.06.2009. On the date of the occurrence i.e., 19.10.2023, the victim child was 14 years old and was studying 10th standard. P.W.6 is the Head Master, has given the school certificate by stating the date of birth of the victim girl as 11.06.2009.

8. P.W.7 examined the victim child and registered the accident registrar, which is marked as Ex.P.5. The investigation officer, who has examined witnesses, sent the victim child for medical examination and obtained the school certificate to prove the date of birth of victim child. He also assisted to produce the victim child before the Magistrate for recording her statement under Section 164 Cr.P.C.



Crl.A.(MD)No.559 of 2025

WEB COPY

9. P.W.4 in her evidence stated that she has seen the occurrence through window and the child had beaten the accused, after he sexually assaulted her. On seeing that, P.W.4 come out of her house and raised alarm. During the cross-examination it was suggested to P.W.4 that due to previous enmity, P.W.4 had deposed evidence against him. P.W.4 had denied the same by stating that her daughter was never in love with the accused. It was further suggested that the accused had helped the child by lifting her up as she fell down, which was also stoutly denied by P.W.4. The evidence of victim child seems to be corroborated by P.W.4, who is the eye witness for the occurrence.

10. Both the evidence of P.W.3 and P.W.4 are clear, cogent and corroborate each other and their cross-examination did not shake the truth. P.W.1, who is the defacto complainant, has spoken about the occurrence, which was informed by P.W.5 through phone call. The evidence of P.W.3 is also very much connecting and natural.

11. According to Section 29 of POCSO Act, when a person is prosecuted for certain offences, the Court must presume that the accused committed, abetted or attempted to commit the offence. In view of the same, there is an initial presumption with regard to the commission of the



Crl.A.(MD)No.559 of 2025

offence by the accused punishable under Section 8 of the Act. As per Section 30 of the POCSO Act, even with regard to culpable mental state on the part of the accused, the Special Court shall presume the existence of such mental state for committing any of the offence, for which, the person is prosecuted. The reverse burden is only on the accused to prove that he did not commit offence.

12. In the instant case, the victim child herself had gone to the box and spoken about the occurrence, in clear terms by incriminating the accused. Normally, for the offence of sexual assault, the availability of eye witness is a rarity. In the instant case, the eye witness, who had witnessed the occurrence, is also available. The victim girl had given a statement consistently to her mother.

13. The motive of P.W.4 to involve the accused in this case was not established. The accused failed to rebut her the initial presumption even by preponderance of probabilities. The statement of all the witnesses are clear that the accused had committed offence as alleged by the prosecution.

14. Even the accused had taken out the defence that he had just tried to help the child to get off from the ground as she fall down, while she was



Crl.A.(MD)No.559 of 2025

playing the place of occurrence. So the presence of the accused in the place of occurrence has been admitted by the accused, but he had denied only his commission of offence.

15. The version of the accused that victim child had fallen and he had lifted her up was not spoken by any of the witnesses neither in the chief examination nor during the cross examination. The story of the defence put forth by the accused remains disproved. As the acts and intention of the accused have been proved beyond presumption by confirmation through the evidence of witness of the prosecution, the trial Court rightly found the accused guilty for the offence under Section 8 of the POCSO Act. There is no dispute about the age of the victim girl and she was 14 years. This was also confirmed by the school certificate. As the guilty of the accused has been proved and the grounds raised by the accused in the appeal are not supported with the materials, this Court do not find any error with regard to the appreciation on the part of the trial Judge to find the accused guilty under Section 8 of POCSAO Act.



Crl.A.(MD)No.559 of 2025

WEB COPY

16. In fine,

(i) This Criminal Appeal stands dismissed.

(ii) The judgment passed by the learned Additional Sessions Judge, (Fast Track Mahila Court), Kaur, in Spl.S.C.No.22 of 2024, dated 27.03.2025, is hereby confirmed.

Consequently, connected Miscellaneous Petitions are closed.

02.06.2025

Index : Yes/No

Internet: Yes/No

NCC : Yes/No.

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Crl.A.(MD)No.559 of 2025

WEB COPY

To

- 1.The Additional Sessions Judge (Fast Track Mahila Court), Karur.
- 2.The Inspector of Police,
All Women Police Station,
Karur Rural, Karur District.
3. The learned Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.A.(MD)No.559 of 2025

R.N.MANJULA, J.,

Rmk

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