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CRL MP(MD). No.6911 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 12/12/2025

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THE HONOURABLE MRS. JUSTICE N.MALA

CRL MP(MD)No.6911 of 2025

in

CRL A(MD)No.336 of 2025

Abubaker

... Petitioner/
Appellant

Vs

The State of Tamil Nadu,
Rep by the Inspector of Police,
All Women Police Station,
Papanasam,
Thanjavur District.
Crime No.18/2022.

... Respondent/
Complainant

PRAYER:- To Suspend the sentence imposed on the petitioner in Spl.S.C.No.106 of 2023 dated 12.02.2025 on the file of the Principal Special Court for Exclusive Trial of Cases Under POCSO Act, Thanjavur, pending disposal of the above Criminal Appeal Crl.A.(MD). No. 336 of 2025.

For Petitioner : V.Illanchezian
For Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor



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ORDER

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The petitioner/Appellant has filed an appeal against the judgment and decree of the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, in Spl.S.C.No.106 of 2023 dated 12.02.2025, wherein the appellant was found guilty of the offence under Section 9(i) read with Section 10 of the POCSO Act, 2012 and was convicted and sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs.10,000/-, in default to undergo simple imprisonment for six months.

2. The case of the prosecution is that the victim boy was aged about 13 years. On 30.06.2022, after returning from school, he went to a nearby fancy shop to purchase a label. Since the label was not available in the fancy shop, he went to the grocery shop owned by the petitioner at about 07.00 P.M., to buy chocolate. The petitioner asked the boy to help him in keeping inside the godown the articles lying outside the shop. When the victim entered the godown, the accused grabbed him with sexual intention, groped his penis, shook it asking whether it would erect or not and squeezed the same painfully. The respondent police after



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completing the investigation filed a charge sheet against the petitioner for the offences under Section 3(c), 4(1), 4(2) of POCSO Act. Thereafter, the Trial Court framed charges for the offences under Section 9(i) read with Section 10 of POCSO Act, 2012. The prosecution examined 17 witnesses and marked 11 exhibits. The defence neither examined a witness nor marked exhibit. The Trial Court after a full pledged trial concluded that the prosecution proved its case beyond reasonable doubt and awarded the punishment as stated above.

3.The learned counsel for the petitioner submits that the petitioner has an arguable case in the appeal. The learned counsel submits that the evidence of the Doctor at Page No.77 of the type set of paper clearly established that there were absolutely no injuries on the victim boy and therefore Section 9(i) of the Act was not attracted. The learned counsel submitted that as the prosecution failed to make out a case under Section 9(i) read with Section 10 of the POCSO Act, 2012, the impugned judgment deserved to be set aside.



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4.The learned Additional Public Prosecutor submits that Section 9(i) read with Section 10 of the POCSO Act, 2012, squarely applies to the facts of the case, since causing bodily harm by sexual assault is covered under the said provision. The learned Additional Public Prosecutor submitted that the boy had complained of pain in his penis and the medical evidence of the Doctor corroborated the said statement of the victim. The learned Additional Public Prosecutor submitted that it is well established that on the basis of the victim's statement, conviction can be sustained.

5.Heard the learned counsel on either side.

6.I find that no *prima facie* case is made out. As regards the submission on the applicability of Section 9(i) of POCSO Act, 2012 is concerned, I find that the same can be considered at the time of final hearing and at this stage the exercise is not required. In any event, the victim has clearly given his statement about the bodily harm and the Doctor has also corroborated his evidence on such statement.



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7. Therefore, this Court finds that no merits in the petition and accordingly, the petition stands dismissed.

12.12.2025

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TO

- 1.The Principal Special Court for Exclusive Trial
of Cases Under POCSO Act, Thanjavur
- 2.The Inspector of Police,
All Women Police Station,
Papanasam,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.MALA,J

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