



Crl. A.(MD)No.853 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 28.08.2025

CORAM

THE HONOURABLE Dr. JUSTICE R.N.MANJULA

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Surya @ Mani Surya

... Appellant/ Sole accused

Vs.

State of Tamil Nadu
rep., by The Inspector of Police,
Dindigul Nagar North Police Station,
Dindigul.
Crime No.376 of 2024

... Respondent/ Complainant

Prayer : This Criminal Appeal is filed under Section 415(2) of BNSS to call for the records pertaining to the judgment of conviction and sentence passed by the Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Dindigul, in Spl.S.C.No.158 of 2024 dated 02.07.2025 and allow the appeal and acquit the appellant.

For Appellant : Mr.R.Ganeshprabu

For Respondent : Mr.K.Gnanasekaran
Government Advocate (Criminal Side)



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JUDGMENT

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This Criminal Appeal is filed challenging the order passed by the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Dindigul, in Spl.S.C.No.158 of 2024 dated 02.07.2025.

2. The appellant is the sole accused, who has been found guilty for the offence punishable under Section 363 IPC, convicted and sentenced by the learned trial Judge to undergo 3 years RI and to pay a fine of Rs.5,000/-, in default to undergo 3 months SI.

3. The case of the prosecution is that on 22.03.2024, at about 02.00 p.m., the accused went to the School where the victim girl was studying and asked her to come with him so that they can marry. As they had been in love, the victim girl also accompanied him and they went to various places and stayed together. During that time, the accused has committed sexual assault on her knowing pretty well that the victim was a minor. The father of the victim went to the School to pick up the victim, but he was told that all students left. As the victim was missing, he had lodged a complaint to the Police and thereafter, the case was registered and the victim was found to be



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staying along with the accused. After completion of investigation, charge

sheet has been filed against the accused for the offences under Section 363

IPC, Section 9 of Prohibition of Child Marriage Act and Section 8 of POCSO

Act and the same was taken on file in Spl.S.C.No.158 of 2024 on the file of

the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila

Court), Dindigul. After completing the legal mandate of furnishing copies and

all other legal formalities, the learned trial Judge framed charges against the

appellant/sole accused for the offence under Section 363 IPC and Section 8 of

POCSO Act. When the appellant was questioned, he denied the same and

claimed to be tried. .

4. During trial, on the side of the prosecution, P.W.1 to P.W.12 were

examined and Exs.P1 to Exp28 were marked. Besides, M.O.1 was marked.

On the side of the defence, D.W.1 and D.W.2 were examined and no

documentary evidence was let in.

5. After the conclusion of trial, based on the oral and documentary

evidence, the learned trial Judge has convinced and sentenced the appellant as

stated *supra*. Aggrieved over the same, this appeal has been preferred.



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6. The learned counsel appearing for the appellant submitted that the victim did not support the case of the prosecution and treated hostile; despite the same, the learned trial Judge proceed to convict the accused under Section 363 IPC; in fact, the victim and the appellant got married after the victim attained majority; and hence, there is no ground to convict the appellant.

7. The learned Government Advocate (Crl.side) submitted that the trial Court has rightly considered the evidence placed and arrived at a conclusion by convicting the accused.

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

9. Today, on 28.08.2025, chamber hearing was conducted and both the accused and the victim girl were present along with their parents. It is learnt that the victim had married the accused, after she attained majority and now, she got conceived out of their marriage. The accused also appeared to be a boy of 21 years old, at the time of occurrence, he did not know the consequences of his act. Though the victim and the accused went out together on the day of occurrence, the accused did not have any intention to kidnap the



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victim. It was more like a child's play for them to go out without informing to their parents. It appears that the parents had willingly arranged the marriage between the appellant/accused and the victim. Therefore, the accused would have had no reason to kidnap the victim. After the victim was secured, she was subjected to medical examination and it was found that her hymen was intact. Even the victim has stated that she was not subjected to any sexual assault by the accused at the time when she was with him.

10. It is learnt from the judgment of the learned trial Judge itself that the victim, who was examined as P.W.1, has stated in her evidence that she was in love with the accused and went with him on two wheeler on the day of occurrence believing that she was going to be married off to someone else. Even during the medical examination, the victim has stated that she was not harassed by the accused either physically or mentally. Even though during the discussion of the judgment the trial Court got convinced that the accused did not kidnap the victim, having regard to the age of the victim and surrounding circumstances, the trial Court had rendered a finding that the accused was found guilty for the offence under Section 363 IPC.



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11. A holistic appreciation of the evidence on record does not disclose the commission of an offence under Section 363 IPC against the appellant. Both the accused and the victim girl were very young and they have gone out of the custody of their parents, without any intention of committing an offence. As the victim and the accused got married now and they are living as a family, to convict the accused in this situation for an offence under Section 363 IPC can subject the victim to unnecessary harassment and hardship. There was no intention on the part of the appellant/ accused to entice the victim, because the victim was already in love with him and her contact appears to be a matured one. In such circumstances, the judgment of the trial Court is liable to be set aside.

12. In result,

i) This Criminal Appeal is allowed.

ii) The judgment of the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Dindigul, in Spl.S.C.No.158 of 2024, dated 02.07.2025, is hereby set aside.

iii) The appellant is hereby acquitted of all charges framed against him.



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iv) The bail bond shall stand cancelled and sureties, if any, shall be discharged.

v) The fine amount, if already paid, shall be refunded to the appellant/accused.

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NCC : Yes/No

Index : Yes/No

Rmk

To

1.The Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court),
Dindigul

2.The Inspector of Police,
Dindigul Nagar North Police Station,
Dindigul.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.N.MANJULA, J.

Rmk

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