



Cr1.A(MD)No.724 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 24.11.2025

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

and

THE HONOURABLE MS.JUSTICE R.POORNIMA

Cr1.A(MD)No.724 of 2022

Soundarpandi

: Appellant/Sole Accused

Vs.

The State Rep. By its  
The Inspector of Police,  
Devathanapatti Police Station,  
Theni District  
Crime No.427 of 2014

: Respondent/Complainant

Prayer:-This Criminal Appeal is filed under Section 374(2) of Criminal Procedure Code, to call for the records of the impugned judgment made in Spl.S.C.No.20 of 2015 on the file of the Fast Track Mahila Court, Theni District dated 13.02.2018 and set aside the same.

For Appellant : Mr. M.Jegadeesh Pandian

For Respondent : Mr.T.Senthil Kumar

Additional Public Prosecutor



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## J U D G M E N T

**P.VELMURUGAN, J.,**

This Criminal Appeal is filed against the judgment of conviction and sentence passed by the Fast Track Mahila Court, Theni District in Spl.S.C.No.20 of 2015 dated 13.02.2018

2. By the above judgment the trial Court had convicted the appellant and sentenced him, as detailed below:

| Penal Provisions | Sentence of Imprisonment | Fine Amount                                                 |
|------------------|--------------------------|-------------------------------------------------------------|
| 6 of POCSO Act   | Life Imprisonment        | Rs.10,000/- i/d to undergo six months rigorous imprisonment |

3.The case of the prosecution in brief:-

3.1. On 02.10.2014 at about 4.00 p.m., while the victim/P.W.2 was alone in her house, the accused, who is a neighbour took her into his house and is alleged to have committed sexual assault on the victim. Based on the complaint given by the de facto complainant a case was registered in Crime No.427 of 2014 for the offence under Section 8 of the POCSO Act.



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3.2 After completion of investigation, the respondent police laid a charge sheet before the Fast Track Mahila Court, Theni and the same was taken on file in Spl.S.C.No.20 of 2015.

3.3. On appearance of the accused the provisions of Section 207 of Cr.P.C., were complied with. . The trial Court framed charges against the appellant for the offence punishable under Section 6 of the POCSO Act.

3.4. In order to substantiate the case of the prosecution, the prosecution examined 18 witnesses as P.W.1 to P.W.18 and marked 14 exhibits as Ex.P.1 to P.14. No material objects were marked.

3.5. After examination of prosecution witnesses, when the appellant was questioned under Section 313 of the Code of Criminal Procedure regarding the incriminating circumstances appearing against him, he denied the same as false. On the side of the defence, one witness was examined and no document was marked.



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4. The trial court, after considering the evidence on record and hearing either side, by judgment dated 13.02.2018 convicted and sentenced the accused as detailed in Paragraph No.2 supra. Challenging the above said conviction and sentence, the accused has filed the present appeal.

5. The learned counsel appearing for the appellant would submit that the victim did not state anything regarding the aggravated penetrative sexual assault, and that her evidence was not corroborated by the testimony of any other other witnesses. The doctor who examined the victim, was examined as P.W.8, noted the injuries in the accident register marked as Ex.P.5 which clearly states that the mother of the victim refused to allow the doctor to conduct clinical examination. Therefore, the medical evidence does not support the case of prosecution. He would further submit that though the victim was admitted in the hospital on 06.10.2014 for clinical examination only during a subsequent examination were old injuries found. Therefore the possibility of injuries caused during the treatment in order to register a false case cannot be ruled out, which creates a reasonable doubt.



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Therefore the prosecution has failed to prove that the injuries sustained by the victim were only due to penetrative sexual assault committed by the appellant. The doctor examined the victim only on 09.10.2024, therefore injuries could have been caused through some other means. The provisions of POCSO Act were not complied with. The place of occurrence is highly doubtful. The evidence of P.W.1 to 3 and Exp.s 11 and 12 are self contradictory in nature. As per the evidence of P.W.1 to P.W. 3 the occurrence was said to have taken place in the house of one Malliga, whereas the house of the appellant was shown as being adjacent to the house of P.W.1 creating further doubt regarding the place of occurrence. There are contradictions in the evidence of P.W.1 to P.W.3 casting serious doubt over the case of prosecution. The neighbours of the complainant did not support the case of prosecution. There is no corroboration between the evidence of the prosecution witnesses, and their testimonies are contradictory in nature. The trial Court failed to consider the entire evidence and the testimony of the victim is highly doubtful. The prosecution has failed to prove its case beyond all reasonable doubt and therefore the benefit of doubt has to be extended in favour of the appellant herein. However the trial Court, on



sympathetic grounds, convicted the accused for the offence under

Section 6 of the POCSO Act and therefore the judgment passed by the trial Court is liable to be set aside and the appeal deserves to be allowed.

6. The learned Additional Public Prosecutor would submit that the defacto complainant, who is the mother of the victim, set the law in motion and the case was registered in Crime No.427 of 2014 and after investigation a charge sheet was laid before the Mahila Court. Since the offences are against a child, the trial Court rightly took cognizance of offence and framed charges.

7. In order to substantiate the charges the prosecution has examined P.W.1/the mother of the victim who lodged the complaint regarding penetrative sexual assault, allegedly committed by the appellant. P.W.2 the victim has categorically stated that it was the appellant who committed penetrative sexual assault on her. P.W.3 the brother of the victim, who is stated to have witnessed the occurrence. The doctor who examined the victim was examined as P.W.8 who has also spoken about the injuries sustained by the victim and also the entry



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in the accident register made by the doctor under Ex.P.5 also shows that

the victim sustained injuries on her private parts, indicating that the victim was subjected to penetrative sexual assault. The victim was also produced before the learned Judicial Magistrate for recording her statement under Section 164 of Cr.P.C., which also clearly indicates that the appellant called the victim under the guise of providing candy and took her to his house where he committed penetrative sexual assault on her. Immediately she informed the same to her brother thereafter when she came from the work place she preferred a complaint. Therefore from the evidence of P.W.2 /victim, P.W.3/brother of the victim, P.W.8/doctor, accident register/Ex.P.5 and the statement of the victim recorded under Section 164 of Cr.P.C/Ex.P.8 the prosecution has clearly proved its case beyond reasonable doubt that the victim was subjected to aggravated penetrative sexual assault. The trial Court also rightly appreciated the oral and documentary evidence and convicted the appellant for the offence as stated supra and therefore there is no merit in the appeal and the same is liable to be dismissed.



8. We have considered the submissions of the learned counsel for the appellant and the learned Additional Public Prosecutor for the State and have consciously gone through the evidence and materials on record.

9. The specific case of the prosecution is that the appellant herein under the guise of providing candy, took the victim into his house and committed aggravated penetrative sexual assault. In order to substantiate the charges levelled against the appellant the mother of the victim was examined as P.W.1 . She has spoken about lodging a complaint before the respondent police. P.W.2/victim has clearly stated that the appellant who was her neighbour promised her to provide her candy, took her into his house, removed her dress, and also hugged and kissed her. Her statement under Section 164 of Cr.P.C was recorded by the learned Judicial Magistrate. That also confirms that the appellant took her into his house and committed penetrative sexual assault. She informed her mother and the victim was treated as an inpatient in the hospital for three days. Initially the case was registered under Section 8 of the POCSO Act and subsequently after recording statement from the



victim the case was altered to Section 6 of the POCSO Act. The occurrence took place on 02.10.2024 at about 16.00 hrs and on the same day at about 21.40 pm., the doctor made an entry in the accident register showing that the victim was brought by her mother. The entry shows that the known persons committed penetrative sexual assault and also bit her chest kissed her. The complaint was given even before going to the hospital. It was the mother of the victim who preferred the complaint and left for the hospital. Though the doctor was examined as P.W.8 the mother of the victim/P.W.1 stated that the neighbour caused sexual assault on her daughter and doctor made an entry for the same in the accident register. The complaint of the victim included pain in her chest and abdomen. She did not consent to a blood test or examination of her private parts and treatment was not provided.

10. From the reading of the evidence of P.W.2/victim and the doctor/P.W.8 and the evidence of P.W.3/brother of the victim and the statement of the victim recorded by the Magistrate under Section 164 of Cr.P.C/Ex.P.8 as well as the medical record it is clear that the victim was subjected to penetrative sexual assault. In order to the prove the



age of the victim the school certificate of the victim was marked as Ex.P.

13, wherein the date of birth of the victim was mentioned as 07.02.2005.

The date of occurrence is 02.10.2014, therefore the age of the victim is only nine years and therefore she is a child as defined under Section 2(d) of the POCSO Act.

11. Section 2(d) of the POCSO Act reads as follows:

(d) 'child' means any person below the age of eighteen years;

As per the prosecution case, the victim is covered by the definition 'child' and if the appellant has committed any form of penetrative sexual assault against the victim who is below 12 years which falls under Section 5(m) aggravated penetrative sexual assault, he is liable to be punished under Section 6 of the POCSO Act

12. Though on the side of the defence, one witness was examined, she did not speak anything about the occurrence of sexual assault and only projected a motive that a false case was laid. The said defence was not even suggested to P.W.1 to P.W.3 but was put only before the Investigation Officer.



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13. The reading of the entire materials and the evidence of P.W. 1 to P.W.3, the defence taken by the appellant was not supported by any materials, that due to repayment of a loan paid to the mother of the victim, the mother of the victim filed a false case against the appellant herein, and there is no proof to show the mother borrowed money, and in order to repay the same, when the same was demanded, in order to escape from the repayment, she filed a false case against the appellant herein.

14. It is to be noted that no mother would sacrifice the future of of her own daughter to escape from the repayment of borrowed money. Further, there is no specific material produced by the defence. However a reading of the evidence of P.W.1 to P.W.3 and also through the evidence of P.W.8/doctor and Ex.P.8/ statement of the victim recorded under Section 164 of Cr.P.C., and Ex.P.5/ Accident Register and Ex.P.13/ age certificate of the victim shows that they initially registered the case under Section 8 of the POCSO Act. Subsequently after recording



statements from the witnesses and medical opinion of the doctor alteration report was filed and based on that, final report was filed before the Special Court and the Special Court has also framed charges punishable under Section 6 of the POCSO Act.

15. Reading the evidence of P.W.1 to P.W.3, the defence has not supported the prosecution case and claimed that the complaint was filed to avoid repayment of a loan allegedly borrowed by the mother of the victim. However, there is no proof of such borrowing. Moreover, no mother would sacrifice the future of her child to avoid repaying a loan. A reading of the evidence of P.W.1 to P.W.3, P.W.8, Ex.P.5, Ex.P.8, and Ex.P.13 clearly shows that the prosecution case is substantiated. Initially the case was registered under Section 8 of the POCSO Act and later, based on the medical opinion, the case was altered to Section 6 of the POCSO Act and the Special Court framed charges under Section 6 of the POCSO Act.

16. Upon re-appreciation of the evidence, this Court finds that the testimony of the victim is trustworthy and is supported by her



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statement recorded under Section 164 Cr.P.C., and medical evidence.

The contradictions pointed out by the defence are not material contradictions and do not affect the prosecution case. In cases of this nature, if the evidence of the victim inspires confidence, the Court can record conviction based solely on her testimony.

17. In view of the same, this Court finds no reason to interfere with the judgment of the trial Court either to set aside the conviction or modify the sentence. Hence, the appeal lacks merit and deserves to be dismissed.

18 In the result the Criminal Appeal stands dismissed, confirming the judgment of the trial Court.

(P.V.,J.) (R.P.J.,)  
24.11.2025

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Internet : Yes/No  
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To:

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1. The Fast Track Mahila Court, Theni District
2. The Inspector of Police,  
Devathanapatti Police Station,  
Theni District
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.
4. The Section Officer  
Criminal Records,  
Madurai Bench of Madras High Court,  
Madurai.



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R.POORNIMA,J.

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