



Crl.A.(MD).No.795 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 20.08.2025

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A.(MD)No.795 of 2022

Sarath Chandran

... Petitioner/Appellant/Sole Accused

Vs.

State represented by
the Inspector of Police,
Pettai Police Station,
Pettai,
Tirunelveli Town.
(Crime No.68 of 2019)

... Respondent/ Respondent/Complainant

PRAYER: Criminal appeal has been filed under Section 374 (2) of Cr.P.C., to set aside the Judgement dated 08.11.2022 passed in Special C.C.No.331 of 2019 on the file of the Special Court for POCSO Act Cases, Tirunelveli.

For Petitioner : Mr.N.Pragalathan

For Respondent : Mr.Albert James
Government Advocate
(Criminal Side)

ORDER

This criminal appeal has been filed by the accused in Spl.CC.No.331 of 2019 on the file of the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli, challenging the conviction and sentence passed against him.

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2.The case of the prosecution is that PW1 the victim was studying in the Government School, Kallanai. The appellant allegedly stalked her saying “I Love You” and also he said to have shown his private part to the said victim girl. Therefore, a complaint was preferred before the respondent police and the same was registered in Crime No.68 of 2019 and the accused was arrested and investigation was conducted by the Investigating Officer and he filed the final report before the learned Mahila Court, Tirunelveli for the offence punishable under Sections 354(A), 354(D) r/w 12 of POCSO Act and Section 3(1)(w)(ii) of SC/ST (POA) Amendment Act 2015. Thereafter the case was transferred to the Special Court. The same was taken on file by the Special Court in Spl.C.C.No. 331 of 2019 and the summons were issued. After appearance of the accused, the copies of the relied upon documents were served under section 207 of Cr.P.C. and the charges were framed under Sections 11(i)(iv) r/w 12 of POCSO Act 2012 and Section 3(1)(w)(ii) of SC/ST (POA) Amendment Act, 2015 and the charges were explained to the accused. The accused namely, the appellant herein denied the charges and claimed to be tried.

3.In pursuance of the above said plea, the trial before the trial Court was commenced. The prosecution to prove the case examined PW1 to PW17 and marked Ex.P1 to Ex.P13.



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4. After examination of all the prosecution witnesses, the accused was subjected to Section 313 Cr.P.C proceedings. He denied the facts narrated by the prosecution witnesses. Even though the appellant was granted time to examine defence witnesses, none was examined on his side and no documents were marked.

5. At the conclusion of the trial, the trial Court found the accused guilty under Section 11(i)(iv) r/w 121 of POCSO Act, convicted and sentenced him to undergo three years rigorous imprisonment with fine of Rs.1,000/-, in default to undergo further six months rigorous imprisonment. Set off under Section 428 Cr.P.C. was also ordered. The accused was not found guilty under Section 3(1)(w)(ii) of SC/ST (POA) Amendment Act, 2015 and was acquitted.

6. The learned counsel for the appellant would submit that is no whisper in the cross examination that the accused showed his private part. She only deposed that the appellant often said “I Love You”. In the said circumstances, the offence was not made out under any of the Act. Hence, he seeks to set aside the conviction and sentence imposed against him.



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7.The learned counsel would submit that he had already undergone sufficient sentence of 275 days before and after trial and now both are living in different villages after their marriage. Hence, he seeks to reduce the sentence.

8.The learned Government Advocate (Crl. Side) would submit that as per the Act irritating words also would come under the definition of the harassment under Section 11 of the POCSO Act. Hence all the ingredients were satisfied by the prosecution and therefore on the basis of the evidence the trial Court has rightly convicted the accused. He also submitted that it is true that he is living in a different village. But in view of the stringent provision under the Act sentence is not liable to be reduced. Hence, he seeks to confirm the sentence.

9.This Court considered the rival submissions and perused the records.

10.PW1 in his evidence clearly deposed that he stalked her and harassed here by saying “I Love You”. Further there is a specific allegation that he showed his private part. Even though PW1 in cross examination only confined to the allegation relating to irritating words “I love you” and the same was repeatedly done by the appellant, this Court is inclined to accept the argument of learned Government Advocate (Crl. Side) that the case would come under



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Section 11 of the POCSO Act, irritating words. This amounts to amorous advances. Therefore, this Court is inclined to accept the evidence of PW1 to convict the appellant under Section 11(i)(iv) of the POCSO Act. After that incident the petitioner is not involved in any other occurrence and also living separately doing his job and also married. Similarly the victim also is married and living separately in a different village.

11.This Court considering the above said circumstances, is inclined to reduce the sentence to the period of sentence already undergone.

12.In the result, this criminal appeal stands partly allowed. The conviction and sentence imposed by the Special court upon the accused is hereby confirmed. The sentence imposed upon the accused is reduced to the sentence of imprisonment already undergone by him.

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NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To

- 1.The Sessions Judge, Special Court for POCSO Act Cases,
Tirunelveli.
- 2.The Inspector of Police,
Pettai Police Station,
Pettai,
Tirunelveli Town.
- 3.The Additional Public Prosecuto,
Madurai Bench of Madras High Court, Madurai.
- 4.The Section Officer,
Criminal Record,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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