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Order QR



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 11-11-2026**

CORAM

**THE HON'BLE MR.JUSTICE SUNDER MOHAN**

**Crl.A.No.340 of 2022**
*CNR: {HCMA010421362022}*

Case QR

Kandasamy ..Appellant

Vs

The State Represented by
Inspector of Police,
Senthurai Police Station,
Ariyalur District.
(Crime No.284 of 2018) ... Respondent

**Prayer** : Criminal Appeal filed under Section 374(2) of Cr.P.C., against the order of conviction and consequential sentences passed in a judgment dated 08.03.2022 made in Special S.C.No.39 of 2018 on the file of Fast Track Mahila Court, Ariyalur.

For Appellant : Mr.J.Shahul Hameed
for M/s.C.Prabakaran

For Respondent : Ms.Sharada Vivek,
Additional Public Prosecutor

*****

**JUDGMENT**

The appeal challenges the Judgment passed in Special S.C.No.39 of 2018 holding the appellant guilty of the offence under Section 12 of the POCSO Act



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and Section 354-A(2) of IPC and sentencing him to 3 years rigorous imprisonment and to pay a fine of Rs.5,000/- and in default, to undergo three months simple imprisonment.

2.1. The case of the prosecution is that the appellant was working as a watchman in a school, where the victims (5 in number) were studying; that on 07.09.2018, at about 11.50 a.m., when the victims were nearing the school gate, the appellant had asked the victims as to whether they slept with anybody and that he would offer money of Rs.500/- or Rs.1,000/- for sleeping with him and thus, committed the offences u/s 12 of POCSO Act and Sections 354A(2), 294(b) of IPC. It is the further case of the prosecution that the victims had given a complaint to the Headmistress of the school, PW1; that after preliminary enquiry, the Headmistress had lodged a complaint on 08.09.2018, which was registered in Crime No.284 of 2018 as an FIR (Ex.P16).

2.2. PW11 after registering the FIR had handed over the investigation to PW12, who filed the final report u/s 294(b) of IPC and Section 11(i) r/w 12 of POCSO Act. The trial Court framed charges against the accused under Section 294(b) of IPC and Section 11(i) r/w 12 of POCSO Act and when questioned, the appellant pleaded 'not guilty’.



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2.3. The prosecution examined 13 witnesses and marked Ex.P1 to P18. When the appellant was questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against him, he denied the same. The appellant neither examined any witness nor marked any document. Ex.C1 to C5 were marked as court documents.

2.4. The trial Court acquitted the appellant of the offence under Section 294(b) of IPC and convicted him for the offences under Section 12 of the POCSO Act and Section 354-A(2) of IPC and sentenced him as stated above.

3. Heard Mr.J.Shahul Hameed, the learned counsel appearing for the appellant and Ms.Sharada Vivek, the learned Additional Public Prosecutor appearing for the respondent/State.

4. The learned counsel appearing for the appellant submitted that there are contradictions in the evidence of PW2 to PW5 and PW7, who are the victims in this case; that the evidence of PW3 would suggest that she did not hear what the appellant stated and it was only at the instance of PW2 that she had made allegation in her complaint to the Headmistress; that none of the victims had



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signed in the complaint given to the Headmistress and it was only PW3, who had written the complaint and written names of all the victims in the complaint; that the allegation when the parents of the victims went to complain to the Headmistress, the appellant threatened the victims once again is an afterthought and this was not stated in their earlier versions and considering the contradictions, prayed for acquittal.

5. The learned Additional Public Prosecutor *per contra* submitted that the appellant as the watchman is bound to protect the children; that on the other hand, he had humiliated the children by making inappropriate and lewd comments; that the victims were consistent in their versions right from inception of the case and before the trial court; that their evidence has not been discredited in any manner by the defence; and that therefore, the trial court was justified in holding the appellant guilty of the aforesaid offences.

6. As stated above, the prosecution had examined 13 witnesses to prove its case. PW1 is the *de-facto* complainant and the Headmistress of the school where the victims had studied; PW2 to PW5 and PW7 are the victims; PW6, PW8 and PW9 are the teachers, who worked in the said school, and corroborate



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the evidence of victims; PW10 is the Constable, who was present when the statement of the victims were recorded by the Investigating Officer; PW11 is the Sub-Inspector of Police, who registered the FIR; PW12 is the Investigating Officer; PW13 is the Sub-Inspector of Police assisted the Investigating Officer.

7. It is the prosecution case that when the victims were nearing the school gate during the school interval, the appellant had inappropriately asked the victims as to whom they slept with and that he was willing to offer Rs.500/- or Rs.1,000/- for them to sleep with him. It is the further case of prosecution that PW3 had given a written complaint to PW1 on 08.09.2018. On the basis of the said complaint given to PW1, PW1 had lodged a complaint to the respondent police, which was registered as an FIR. The witnesses have uniformly stated that the appellant had made inappropriate and lewd remarks. Their earlier statements before the Magistrate u/s 164 Cr.P.C. also corroborates their version.

8. However, the cross-examination of the witnesses would reveal that there was a wordy altercation between the victims and the appellant and the occurrence did not taken place exactly in the manner alleged by the prosecution. PW3 in her cross-examination has stated as follows :-



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“vjphp b$apYf;F ngha;tpl;L te;jgpwF mtiua[k;. v';fisa[k; miHj;Jte;J ,dpnky; c';fSf;Fs; ,g;go jpl;of;bfhs;sf;TlhJ vd;W ngrpdhh;fsh vd;why; Mkhk;/”

9. Whatever be the provocation offered by the victims, there was no justification for the appellant to speak to the victims in such a manner. Therefore, this Court finds no infirmity whatsoever in the finding of the guilt recorded by the trial court, based on the evidence of the victims, the Headmistress, PW1 and the teachers who speak about the complaint lodged by the victims to the Headmistress.

10. As regards the sentence, it is reported that the appellant was in custody for over a period of 55 days during investigation and pending appeal. The appellant was aged about 56 years at the time of occurrence and is now aged about 65 years and he is not working in the school anymore. The alleged occurrence had taken place in the year 2018. Considering the facts and circumstances of the case, the age of the appellant, this Court is of the view that the interest of justice would be met if the sentence of the imprisonment imposed on the appellant by the trial court is modified to the sentence already undergone. The fine imposed by the trial Court is confirmed.



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11. With the above modifications, the Criminal Appeal is dismissed. The bail bond, if any, executed by the appellant shall stand discharged.

**11-11-2026**

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
sp

To

1.The Fast Track Mahila Court,
Ariyalur.

2.The Inspector of Police,
Senthurai Police Station,
Ariyalur District.

3.The Public Prosecutor,
Madras High Court.



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**SUNDER MOHAN, J.**

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