



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17-02-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL A No.664 of 2023

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Ashok Kumar
S/o.Velusamy,
No.5/48, Paraiyadi Veedi,
Vaagaikkulam,
Ravanasamuthiram,
Ambasamuthiram,
Thirunelveli.

...Appellant/Sole
Accused

Vs

State represented by
The Inspector of Police,
All Women Police Station,
Tiruppur North,
Tiruppur District.
Cr.No.21 of 2021.

...Respondent/
Complainant

Prayer : Criminal Appeal filed under Section 374(2) of Cr.P.C., 1973, to set aside the Judgment and Order passed on the appellant / accused by the Sessions Judge, Fast Track Mahila Court, Tiruppur District by a Judgment dated 20.01.2023 made in Spl.S.C.No.102 of 2021 and to acquit the appellant.

For Appellant:

Mr.C.Prabakaran

For Respondent:

Mr.S.Raja Kumar
Additional Public Prosecutor



JUDGMENT

This Criminal Appeal has been filed by the sole accused, challenging the Judgment dated 20.01.2023 passed in Spl.S.C.No.102 of 2021 by the learned Sessions Judge, Fast Track Mahila Court, Tiruppur District, convicting the appellant/accused for the offence under Section 3(a) r/w 4 of the **Protection of Children from Sexual Offences Act, 2012** (hereinafter referred to as *the “POCSO Act”*), and sentencing him to undergo seven years of rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to suffer six months of rigorous imprisonment.

2(a). The case of the prosecution is that the appellant/accused, aged about 19 years, had, on the promise of marriage, committed penetrative sexual assault on the victim girl, aged about 17 years at the time of occurrence, between 26.07.2021 and 29.07.2021 and thus committed the aforesaid offence.

(b). It is further the case of the prosecution that P.W.9, the cousin brother of the victim girl, had informed P.W.2, the mother of the victim girl, who was living in Dindigul, that the victim, P.W.1, was attempting to commit suicide by consuming rat poison; that immediately the victim's mother rushed to Tiruppur, where the victim was residing in P.W.9's house, and when enquired, the victim,



P.W.1, told P.W.2 about the alleged occurrences that took place between 26.07.2021 and 29.07.2021, and a complaint [Ex.P2] was lodged on 09.10.2021.

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(c). The FIR [Ex.P8] was registered by P.W.7, the Sub-Inspector of Police in Crime No. 21 of 2021, for the offence under Section 5(l) r/w 6 of the POCSO Act. P.W.8, the Inspector of Police, conducted the investigation and, after subjecting the victim, P.W.1, to medical examination and taking steps to record the Section 164(5) Cr.P.C. statement of the victim, filed the Final Report against the appellant for the offence under Section 5(1) r/w 6 of the POCSO Act before the learned Sessions Judge, Fast Track Mahila Court, Tiruppur District.

(d). On the appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with, and the case was taken on file as Spl.S.C.No.102 of 2021 by the learned Sessions Judge, Fast Track Mahila Court, Tiruppur. The Trial Court had framed the charge against the appellant for the offence under Section 5(l) r/w 6 of the POCSO Act. During the trial, when questioned, the accused pleaded 'not guilty.'

(e). Before the Trial Court, the prosecution had examined 9 witnesses as P.W.1 to P.W.9 and marked 11 exhibits as Exs.P1 to P11. When the accused



was questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against him, he denied the same. The accused neither examined any witness nor marked any document on his side.

(f). The Trial Court found the appellant guilty of the offence under Section 3(a) r/w 4 of the POCSO Act and sentenced him as stated in paragraph No.1 of this Judgment. Aggrieved by the said conviction and sentence, the accused had preferred the instant appeal.

3. Mr.C.Prabakaran, the learned counsel for the appellant/accused, would submit that the complaint [Ex.P2] is false; that apart from the delay in lodging the complaint, the conduct of the victim, P.W.1, would show that the allegations are false; that the evidence of P.W.9, the cousin brother of the victim, would show that the victim was never at Tiruppur in the month of July when the alleged occurrence is said to have taken place; that there are contradictions in the version of the victim between the Section 164 Cr.P.C. statement and her deposition in the Court; and that the evidence of the Doctor, P.W.3, would also not corroborate the evidence of the victim, P.W.1, and in the light of the above evidence, the impugned Judgment cannot be sustained and prayed for acquittal of the appellant.



4. Mr.S.Raja Kumar, the learned Additional Public Prosecutor, appearing for the respondent, *per contra*, submitted that the age of the victim has been established through P.W.8, the Investigating Officer, who has marked the birth certificate of the victim girl, Ex. P11; that the defence has not disputed the age of the victim; that even assuming that there was a delay in the complaint [Ex.P2] and there was consent by the victim girl, the impugned Judgment cannot be faulted as consent is immaterial; and that therefore, the impugned Judgment need not be interfered with and prayed for dismissal of the appeal.

5. As stated earlier, the prosecution had examined nine witnesses. P.W1 is the victim girl. P.W.2 is the mother of the victim who had lodged the complaint [Ex.P2]. P.W.3 is the Doctor who had examined the victim and had issued the Final Opinion, Ex.P3. P.W.4 is the Observation Mahazar witness and had marked Ex.P4. P.W.5 is the Doctor who examined the appellant and had issued Ex.P5, the Potency Certificate. P.W.6 is the Observation Mahazar witness and marked Ex.P6. P.W.7 is the Sub-Inspector of Police who registered the FIR [Ex.P8]. P.W.8 is the Investigating Officer, who filed the Final Report. P.W.9 is the cousin brother of the victim, in whose house the victim is said to have stayed at the time of the alleged occurrence.



6. The prosecution had filed the birth certificate of the victim girl, Ex.P11, wherein the date of birth of the victim is shown as 29.06.2005.

The alleged occurrences are said to have taken place between 26.07.2021 and 29.07.2021. The victim was a child at the relevant point of time. The birth certificate has not been challenged by the appellant. Therefore, the prosecution established that the victim was a child at the time of occurrence.

7. As stated above, the alleged occurrences, according to the prosecution, took place between 26.07.2021 and 29.07.2021. The complaint was lodged on 09.10.2021. It is the case of P.W.2, the victim's mother, that she came to know of the occurrence only in the month of October, when P.W.9 called her and informed her that the victim was attempting to commit suicide. Strangely, P.W.2, in her cross-examination, would state that she was not aware of the contents of the FIR.

8. Further, P.W.2, in her deposition, would state that P.W.9 called her, stating that when P.W.9 reprimanded the victim for talking to a person frequently through a phone, the victim attempted to consume rat poison. She would also admit that when the victim was examined by the Doctor, the Doctor had not stated that the victim was pregnant. The evidence of P.W.2 would therefore be of no avail to the prosecution. The manner in which the FIR came



into existence is highly doubtful, as P.W.2 herself had denied knowledge of its contents.

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9. Be that as it may. The prosecution case, therefore, rests on the sole testimony of the victim. Admittedly, the victim had not complained about the alleged occurrences to any person, including P.W.9, in whose house she was staying, according to the prosecution. In fact, since P.W.9 had reprimanded the victim for talking to a person over the phone continuously, and the victim attempted to commit suicide by consuming rat poison, P.W.2, the mother of the victim girl, had come to Tiruppur from Dindigul.

10. The Doctor, P.W.3, who had examined the victim, P.W.1, would state in her final opinion, Ex.P3, that the victim had not sustained any external injuries in any part of her body or in her genital part. Therefore, the medical evidence also is of no avail to the prosecution, as it does not offer any corroboration to the evidence of the victim. As stated above, the victim's evidence, therefore, has to be tested in the light of the above facts.

11. P.W.2, the mother of the victim, would state that the victim was staying with her in Dindigul, and she had sent the victim to assist her daughter-in-law, namely, the wife of P.W.9, who had given birth to a child on 16.03.2021. She would further add that during the month of May, her daughter-



in-law, along with the victim, came to their house in Dindigul and stayed in their house for three months, and both of them left for Tiruppur thereafter.

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12. P.W.9, the cousin brother of the victim, would corroborate this version of P.W.2, the mother of the victim. P.W.9 in his cross-examination would state specifically that he took his wife and the victim to the house of P.W.2 on 31.05.2021, and since there was a lockdown, after that, he brought the victim along with his wife in the month of August 2021, and thereafter, the victim was sent for a job 10 days in the company where the appellant was also working. The evidence of the above two witnesses, therefore, would make it clear that the victim could not have been in Tiruppur, where the alleged occurrences took place during the month of July 2021. This aspect, coupled with the fact that the victim had not complained about the occurrences to any person till October 2021, would make her version highly doubtful.

13. It is the case of the prosecution that the penetrative sexual assault was committed thrice, twice in the house of P.W.9 and once in the house of the appellant's uncle. The appellant's uncle has also not been examined by the prosecution. P.W.9 would also not state anything about him being absent in the house at the time when the alleged occurrences took place, especially when there was a lockdown during the relevant period.



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14. In the light of the above evidence, this Court is of the view that the conviction cannot be sustained on the sole testimony of the victim, P.W.1, whose evidence does not inspire confidence and in any event is not of sterling quality to base the conviction only on her testimony.

15. Considering all the above-said facts, the age of the appellant, and the age of the victim, this Court is of the view that the impugned Judgment cannot be sustained. Hence, this Court is inclined to set aside the impugned Judgment of conviction and sentence.

16. Accordingly, the Criminal Appeal stands allowed. The conviction and sentence imposed upon the appellant/accused vide Judgment dated 20.01.2023 by the learned Sessions Judge, Fast Track Mahila Court, Tiruppur, in Spl.S.C.No.102 of 2021, are set aside. The appellant is acquitted of all the charges. The fine amount, if any, paid by the appellant shall be refunded. The bail bond, if any, executed shall stand discharged.

17-02-2026

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

1. The Sessions Judge,
Fast Track Mahila Court,
Tiruppur.

2. The Inspector of Police,
All Women Police Station,
Tiruppur North,
Tiruppur District.

3. The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.



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SUNDER MOHAN, J.
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