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Crl.A.No.441 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-01-2026

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL A No. 441 of 2022

Prasanth
S/o. Subramani,
Sundarapukaran Kattuvalavu,
Ellamada, Velleri Velli,
Edapadi Taluk, Salem District.

Appellant/Accused

Vs

The Inspector of Police,
All Women Police Station,
Sankari.
(Crime No.1 of 2020)

Respondent/Complainant

PRAYER : Criminal Appeal filed under Section 374(2) of Cr.P.C. praying to set aside the order of conviction passed by the learned Sessions Judge, Special Court for POCSO Act Cases, Salem in Spl.S.C.No.53 of 2020 dated 31.01.2022 under Section 11(1) r/w 12 of POCSO Act, 2012 for rigorous imprisonment of 2 years and to pay a fine amount of Rs.5,000/- and default sentence of 3 months simple imprisonment and 1 year rigorous imprisonment for Section 506(i) of I.P.C., by allowing the present Criminal Appeal.

For Appellant : Mr.T.N.Rangesh Kanna

For Respondent : Mr.S.Udayakumar
Government Advocate (Crl. Side)
Assisted by
Ms.Harshana, T.



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J U D G M E N T

The appellant/accused in Spl.S.C.No.53 of 2020 was convicted by the trial Court by the judgment dated 31.01.2022 for offences under Sections 11(1) r/w 12 of Protection of Children from Sexual Offences Act, 2012 (in short 'POCSO Act') and 506(i) of I.P.C., and sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.5,000/- in default, to undergo three months simple imprisonment for offence under Sections 11(1) r/w 12 of POCSO Act and to undergo one year rigorous imprisonment for offence under Section 506(i) of I.P.C. Aggrieved against the said conviction, the appellant/accused filed this appeal.

2. (i) The case of the prosecution is that on 06.12.2019 at about 8.30 a.m. when the victim was cycling to school, the appellant followed her in his motorbike, made a love proposal and further the appellant described her with sexual intent. Thereafter the appellant was warned by the parents of the victim. The appellant tendered apology and promised that he would not disturb the victim and the issue was left at that stage.

(ii) Subsequently, on 26.12.2019 at about 7.00 a.m. when the victim was washing clothes near a canal behind her house, the appellant again



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followed her and threatened her to marry him and if she refused, she would be done away.

(iii) The victim cried to her mother about the incident, her mother lodged a complaint to PW8, who registered F.I.R./Ex.P12.

(iv) Thereafter, PW9 took up investigation, visited scene of occurrence, prepared observation mahazar, rough sketch in presence of PW4.

(v) On getting information about the presence of appellant near Edapadi, Velleri Velli bus stand, the police arrested him on 10.01.2020 at about 10.00 a.m. and the appellant gave a confession/Ex.P4.

(vi) Thereafter the appellant was produced before PW5/Doctor, who examined the appellant and gave potency certificate/Ex.P6 and also age certificate/Ex.P7 stating that the appellant is aged above 18 years but below 20 years.

(vii) The school certificate of the appellant collected from PW6/Head Master confirming that appellant's date of birth is 05.04.1999 and the appellant was studying 12th standard during the year 2016-2017.

(viii) The victim's school certificate/Ex.P11 collected from PW7/Head Master confirming that victim's date of birth is 06.10.2007 and victim was studying 7th standard during the year 2019-2020.



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(ix) Thereafter the section was altered through Alteration Report/Ex.P16 and charge sheet filed for offence under Section 11(1) r/w 12 of POCSO Act and 506(i) of I.P.C.

3.During trial, on the side of the prosecution, PW1 to PW9 examined and Exs.P1 to P16 marked and M.O.1 produced. On the side of the defence, no witnesses examined and no documents marked. On conclusion of trial, the trial Court convicted the appellant as stated above.

4.The learned counsel for appellant submitted that in this case PW1 is the mother of the victim, PW2 is the victim, PW3 is the paternal uncle of PW2 and PW4 is the maternal grandfather of PW2. All four witnesses are closely related and no independent witnesses examined in this case. The case projected by the prosecution is that on 06.12.2019 the victim was riding a cycle. The appellant followed her in his bike and when the victim reached the four road junction, the appellant is said to have passed lucid comments with sexual intent. The occurrence said to have taken place in the morning hours in a public road, but no public examined as witness in this case and the second incident was projected to have taken place on 26.12.2019 again in the open



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place, no independent witnesses examined. All the witnesses are closely related.

5. He further submitted that PW2 had given a parrot-like version as tutored by her mother/PW1. PW3/uncle and PW4/grandfather are hearsay witnesses. With regard to the alleged incident dated 06.12.2019, it is projected that the appellant had sought an apology and promised that he would not disturb the victim girl, which is nothing but an imaginary version. Likewise, no such incident took place on 26.12.2019. In this case, admittedly, the alleged incident said to have occurred on 26.12.2019, whereas the complaint lodged only on 09.01.2020, with a delay of nearly 15 days, for which no explanation given. Further the appellant and the victim both residing in the same street, four houses apart. There was a common passage dispute existed between them which was admitted by PW1. Though PW2 and PW3 were questioned in this regard, they denied. The specific case of the appellant is that due to this dispute he has been falsely implicated in this case.

6. The learned counsel further submitted that PW4/grandfather admit that he signed the observation mahazar and in the confession statement at the police station. Hence, it is clear, a false case foisted against the appellant. He further submitted that the appellant now completed his education, married

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and is living with wife and one child. He further submitted that the appellant is the first person in his family to reach such level of education. Hence, he prayed for the acquittal of the appellant.

7. The learned Government Advocate appearing for the respondent opposed the petitioner's contention and submitted that in this case, PW2 is the victim, who is aged about 11½ years. She was studying 7th standard and she used to cycle to school. The appellant was residing four houses away from the victim's house. He was constantly following the victim and on 06.12.2019, when the victim was on her way to school, the appellant followed her and passed lucid comments. A complaint was lodged, since the appellant apologised, the complaint was not pressed and not pursued. Contrary to the undertaking, the appellant again followed the victim on 26.12.2019 when she was alone washing clothes, and forced her to marry him and threatened her.

8. The victim cried and informed her mother, PW1/mother of the victim lodged a complaint with PW8 and a case registered. There was a delay in lodging the complaint, since the appellant and the victim residing in the same street with same social background and considering the safety and welfare of



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the victim, the complaint could not lodged immediately. But the appellant showed no remorse for his action and he was continuously threatening and following the victim and hence, complaint lodged on 09.01.2020 and F.I.R. registered. On receipt of F.I.R./Ex.P12, PW9 took up investigation, visited scene of occurrence in presence of PW4, prepared observation mahazar, rough sketch, thereafter examined the victim/PW2, her mother/PW1 and uncle/PW3. PW9 on getting information about presence of the appellant near Edapadi, Velleri Velli bus stand, arrested the appellant on 10.01.2020 at about 10.00 a.m. and the appellant gave confession/Ex.P4. Thereafter appellant was produced for medical examination.

9.The Doctor/PW5 examined the appellant and gave potency certificate/Ex.P6 and age certificate/Ex.P7. The school education certificate of the appellant and victim collected from PW6 and PW7. On completion of investigation, charge sheet filed in this case. In this case, all the witnesses supported the case of the prosecution. The trial Court on the evidence and materials produced, had rightly convicted the appellant.

10.The learned Government Advocate on instructions submitted that appellant now completed his education and he married and living with his



wife and child. Further, there was some dispute existed between the appellant and victim's family in sharing the common area and amenities, which is common with neighbours.

11. Considering the submissions made on either side and on a perusal of the materials, it is seen that in this case the appellant was aged about 20 years at the time of occurrence. He completed his schooling and was about to join a course. Later it came to know that he completed a Diploma in Mechanical Engineering. The appellant and the victim are neighbours, residing four houses apart. With regard to the incident, which is said to have taken place on 06.12.2019, there is no recording or materials evidence to show that appellant followed the victim and passed lucid comments against her. Though it is stated that the incident took place in a public place, no independent witness examined and no materials collected in this regard.

12. The second incident is said to have taken place on 26.12.2019. The allegation is that on that day, the appellant forced the victim to marry him and threatened the victim. On 26.12.2019, no lucid comments passed attracting sexual assault. In this case, the evidence of PW3 and PW4, who are uncle and grandfather, are in the nature of hearsay. PW1 is the mother of the victim and



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she was informed about the incident by PW2, the victim/PW2 is of tender age, and there is likelihood of tutoring and giving parrot version with regard to the incident took place on 06.12.2019. There is nothing on record to confirm that any sexual assault committed. Further, the complaint is with a delay of nearly 15 days, no explanation given for the delay and no independent witnesses examined in this case. There seems to be some common are dispute between the appellant and the victim's family. In view of the above, this Court finds prosecution failed to prove the case beyond all reasonable doubt and hence, this Court is inclined to set aside the conviction and sentence imposed on the appellant.

13. Accordingly, the conviction and sentence imposed on the appellant in Spl.C.C.No.53 of 2020 by the learned Sessions Judge, Special Court for POCSO Act Cases, Salem dated 31.01.2022 is hereby set aside and the appellant is acquitted from all the charges. Fine amount, if any, paid shall be refunded. Bail bond, if any, executed shall stand cancelled.

14. This case cannot be quoted against the appellant affecting his future career prospects in any manner.



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15. In the result, the Criminal Appeal stands allowed.

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Index : Yes / No

Neutral citation : Yes / No

Internet : Yes/No

Speaking / Non-speaking order

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To

1.The Sessions Judge,
Special Court for POCSO Act Cases,
Salem.

2.The Inspector of Police,
All Women Police Station,
Sankari.

3.The Public Prosecutor,
High Court, Madras.

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