



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24-02-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL A No.337 of 2023

Vijayan,
S/o.Govindhan,
D.No.559, Gudalur,
Harur,
Harur Post,
Dharmapuri.

...Appellant/Accused

Vs

The State Rep by,
The Inspector of Police,
All Women Police Station, East,
Coimbatore City.
Cr.No.12/2020.

...Respondent/Complainant

Prayer : Criminal Appeal filed under Section 374 of the Criminal Procedure Code, to set aside the Judgment passed in Spl.C.C.No.5/2021 on the file of the Principal Special Court for exclusive trial of cases under POCSO Act, Coimbatore, whereby, convicting the appellant and sentenced to undergo rigorous imprisonment for term of one year and to pay a fine of Rs.1,000/- in default of payment of fine to undergo one month simple imprisonment and allow the appeal.

For Appellant :

M/S.T.Panchatsaram

For Respondent:

Mr.S.Raja Kumar
Additional Public Prosecutor



JUDGMENT

This Criminal Appeal has been filed by the accused, challenging the Judgment dated 31.01.2023 passed in Spl.C.C.No.5 of 2021 by the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore, convicting the accused for the offence under Section 323 of the Indian Penal Code, 1860, and sentencing him to undergo one year of rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to suffer one month of simple imprisonment.

2(a). The case of the prosecution is that the appellant/accused is the father of the victim girl; that he had committed aggravated sexual assault on the victim girl on several occasions by inappropriately touching the private part of the victim girl and also exposing his private part to the victim girl; that the appellant had committed the offence of criminal intimidation by threatening the victim of dire consequences if she discloses the occurrences to anybody else; that the appellant had committed the sexual harassment to the victim girl; and that the appellant had assaulted the victim girl by slapping her and thus committed the offences under Sections 9(n) r/w 10 and 11(i) r/w 12 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as “*the POCSO Act*”) and Sections 323 and 506(ii) of the Indian Penal Code, 1860 (hereinafter referred to as “*the IPC*”).



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(b) On a complaint [Ex.P1] given by the victim, P.W.1, an FIR [Ex.P8] was registered in Crime No.12 of 2020 for the offences under Sections 9(n) r/w 10 and 11(i) r/w 12 of the POCSO Act and Sections 323 and 506(ii) of the IPC by the Sub-Inspector of Police, P.W.11. The Inspector of Police, P.W.12, took up the investigation and filed the Final Report against the appellant for the offences under Sections 9(i)(l), (n) r/w 10 and 11(i) r/w 12 of the POCSO Act and Sections 323 and 506(i) of the IPC before the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore.

(c) 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.C.C.No.5 of 2021 by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore. The Trial Court framed four charges against the accused/appellant for the offences under Sections 9(i)(l),(n) r/w 10, 11(i) r/w 12 of the POCSO Act, and Sections 323 and 506(i) of the IPC. During the trial, when questioned, the accused pleaded 'not guilty.'

(d). Before the Trial Court, the prosecution had examined 12 witnesses as P.W.1 to P.W.12 and marked 14 exhibits as Exs.P1 to P14. 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. The statement of the victim under Section 164(5) of Cr.P.C. was marked as Ex.C1.

(e) The Trial Court, after consideration of the evidence, had acquitted the accused/appellant for the offences under Sections 9(i)(l)(n) r/w 10 and 11(i) r/w 12 of the POCSO Act and Section 506(i) of the IPC. The accused/appellant was convicted for the offence under Section 323 of the IPC and sentenced 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.T.Panchatsaram, the learned counsel for the appellant/accused, would submit that admittedly the appellant is the father of the victim girl; that the victim girl was disbelieved as regards the allegation of sexual assault and harassment; that the alleged attack on the victim girl was only to reprimand her even assuming that the victim girl can be believed; that since the complaint itself is motivated, the victim ought to have been disbelieved even with regard to the alleged attack; and in any case, submitted that the appellant has undergone almost four months imprisonment during investigation and prayed for reduction of sentence.



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4. Mr.S.Raja Kumar, the learned Additional Public Prosecutor, appearing for the respondent, *per contra*, submitted that the Judgment of the Trial Court cannot be faulted; that the Trial Court had considered the evidence in the right perspective and acquitted the appellant of all the charges except Section 323 IPC; and that since there is no infirmity in the finding of guilt, the sentence also does not suffer from any infirmity and prayed for dismissal of the appeal.

5. As stated earlier, the prosecution had examined twelve witnesses. P.W.1 is the victim girl. P.W.2 is the mother of the victim girl. P.W.3 is the brother of the victim girl. P.W.4 is the sister of the victim girl. P.W.5 is the Observation Mahazar witness. P.W.6 to P.W.8 are the Head Constables who assisted the Investigating Officer. P.W.9 is the Doctor, who had examined the appellant and issued Exs.P5 and P6 certificates. P.W.10 is the Doctor, who had examined the victim girl and issued the Medical Examination Report [Ex.P7]. P.W.11 is the Sub Inspector of Police, who registered the FIR [Ex. P8]. P.W.12 is the Investigating Officer who filed the Final Report.

6. As stated above, the prosecution case with regard to the alleged offence of sexual assault and sexual harassment has been disbelieved by the Trial Court. The appellant was also acquitted of the offence under Section 506(i) of the IPC.



The State has not challenged the said finding. The charge under Section 323 of the IPC is based on the fact that the appellant had caused hurt to the victim girl by slapping her.

7. P.W.1 to P.W.5 had been treated as hostile by the prosecution, as they did not support the prosecution case in respect of the alleged offences under Sections 9, 10, 11, and 12 of the POCSO Act. The victim had only stated about the hurt caused to her by the appellant. This Court is of the view that the victim's evidence, insofar as it supports the prosecution case of causing hurt, can be believed. The cross-examination of the victim on that aspect is of no avail to the defence.

8. Therefore, this Court finds no infirmity in the finding of guilt insofar as the offence under Section 323 IPC is concerned. However, considering the fact that the appellant is the father of the victim girl and in view of the relationship, this Court is of the view that the ends of justice would be met if the appellant is sentenced to the period of imprisonment already undergone, namely from 08.09.2020 to 12.01.2021, as recorded in the Trial Court Judgment. Accordingly, it is ordered as follows:

(i) The conviction of the appellant for the offence under Section 323 of the IPC, by the learned Sessions Judge,



Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore, vide Judgment dated 31.01.2023 in Spl.C.C.No.5 of 2021, is confirmed.

(ii) However, the sentence imposed on the appellant, i.e., rigorous imprisonment for one year, is modified to that of the period already undergone. The fine imposed and the default sentence shall remain unaltered.

9. In the result, the Criminal Appeal stands partly-allowed.

24-02-2026

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

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1. The Sessions Judge,
Principal Special Court for
Exclusive Trial of Cases under POCSO Act,
Coimbatore.
2. The Inspector of Police,
All women Police Station, East,
Coimbatore City.
3. The Public Prosecutor
High Court of Madras.



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CRL A No.337 of 2



SUNDER MOHAN, J.

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CRL A No. 337 of 2023

24-02-2026