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IN THE HIGH COURT OF JUDICATURE OF MADRAS

Reserved on : 01.10.2026
Pronounced on :30.10.2026

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CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.A.Nos.342, 1196 & 1197 of 2026

CNR:{HCMA011835322026}

1.Sivakumar ... Appellant / Accused No.1
(CRL.A.No.342 of 2026)

2.Michael Reegan ... Appellant / Accused No.2
(CRL.A.No.1196 of 2026)

3.Jerin ... Appellant / Accused No.3
(CRL.A.No.1197 of 2026)

Vs.

1. State of Tamil Nadu,
Represented by
Inspector of Police,
All Women Police Station,
Kangayam,
Tiruppur District.
(Crime No.18/2024) ... 1st Respondent / Complainant
in all three Criminal Appeals.

2. R.Vanitha ... 2nd Respondent / Defacto
Complainant in
(Crl.A.Nos.1196 & 1197/2026)

COMMON PRAYER: Criminal Appeals filed under Section 415(2) of BNSS Act, to set aside the conviction and sentence imposed on the Appellants / Accused Nos.1 to A3 in the Judgment dated 02.03.2026 made in Special Sessions Case No.158 of 2024 on the file of Sessions Magalir Neethimandram (Fast Track Mahila Court), Tiruppur, by allowing this Criminal Appeals.

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For Appellant (in Crl.A.342/2026) : Mr.N.Palanikumar

For Appellant (in Crl.A.1196/2026) : Mr.V.Paarthiban For Mr.S.B.Viswanathan

For Appellant (in Crl.A.1197/2026) : Mr.V.Paarthiban For Mr.A.Samarulprasath

For Respondent (in All Crl.A) : M/s.Sharadha Vivek Addl.Public Prosecutor

COMMON JUDGMENT

These three Criminal Appeals arise out of the same trial and are directed against the same Judgment, dated 02.03.2026, passed in Special Sessions Case No.158 of 2024, by the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Tiruppur ("the trial Court"). Crl.A.No.342 of 2026 is preferred by Sivakumar (A1), Crl.A.No.1196 of 2026 by Michael Reegan (A2) and Crl.A.No.1197 of 2026 by Jerin (A3).

2. Since the prosecution case, the evidence and the impugned judgment are common, the appeals are disposed of by this common judgment. The appellants are referred to as A1, A2 and A3, as in the trial Court.

3. As the case falls under the Protection of Children from Sexual Offences Act, 2012 ("POCSO Act"), the identity of the child is not disclosed in this judgment; she is referred to as "the victim" or "PW2".

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4.By the impugned judgment, the trial Court convicted and sentenced the Appellants / Accused as follows:

Accused Rank	Offence	Sentence Imposed
A1	Section 5(1) r/w 6 of the POCSO Act	20 years RI and fine of Rs.10,000/-, in default 6 months SI
A1	Section 323 IPC	3 months SI and fine of Rs.1,000/-, in default 15 days SI
A2	Section 7 r/w 8 of the POCSO Act	3 years RI and fine of Rs.3,000/-, in default 1 month SI
A2	Section 506(i) IPC	6 months SI and fine of Rs.2,000/-, in default 1 month SI
A3	Section 366 IPC	3 years RI and fine of Rs.3,000/-, in default 1 month SI
A3	Section 9 of the Prohibition of Child Marriage Act, 2006 (“PCMA”)	1 year RI and fine of Rs.2,000/-, in default 1 month SI
A3	Section 5(1) r/w 6 of the POCSO Act	Acquitted under Section 235(1) Cr.P.C.

5. The sentences were directed to run concurrently, with set-off under Section 428 Cr.P.C. The trial Court awarded compensation of Rs.4,00,000/- to the victim under Section 33(8) of the POCSO Act read with Section 357-A Cr.P.C. A1 paid the fine of Rs.11,000/- on 05.03.2026; A2 and A3 each paid the fine of Rs.5,000/-. A1 is confined in the Central Prison, Coimbatore, and A2 and A3 are confined in the Central Prison, Salem.

6. The prosecution case, in brief, is in three parts. (i) The victim, born on 10.07.2007, was studying in school when A1, a relative, who worked in a

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puncture shop opposite the school, became acquainted with her and professed lc for her. It is alleged that in October 2022, at the house of A1 when no one else present, he committed forcible penetrative sexual assault on her, assaulted her, threatened that he had taken photographs and would upload them on the internet, and on that threat committed such acts repeatedly. (ii) On 25.06.2024, when the victim gone to the house of PW3 (a co-worker) at M.G.R. Nagar for piece-cutting work and PW3 gone to the kitchen, A2, the husband of PW3, alleged to have hugged and kissed her, threatened her with consequences, if she disclosed it. (iii) That night, the victim left her house about 10.00 p.m., telephoned A3 and, on his suggestion, went to the house of his aunt (DW2) at Amaravathi Nagar, where A3 alleged to have compelled her to sexual intercourse on the promise of marriage. On 26.06.2024, A3 taken her to the house of his sister (DW3) at Munnar and, on the way, tied a "Thaali" in front of the Mariamman Temple at Udumalpet, thereby purportedly marrying her.

7. On the complaint (Ex.P1) of the victim's mother (PW1), dated 28.06.2024, PW12, the then Sub-Inspector of Police, All Women Police Station, Kangayam, registered Ex.P25, FIR, in Crime No.18 of 2024, for offences under Section 9 of Prohibition of Child Marriage Act, 2006, (PCMA) Sections 7 r/w 8 and 5(1) r/w 6 of the POCSO Act and Sections 366 and 506(i) IPC. The investigation taken up by PW11, later by PW13. The victim's statement under Section 164 Cr.P.C. (Ex.P3) recorded on 18.07.2024, and A1 arrested on the same day. The sections were altered (Ex.P22) and the final report filed on 23.08.2024

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against A1 under Section 5(1) r/w 6 of the POCSO Act and Section 323 IP against A2 under Section 7 r/w 8 of the POCSO Act and Section 506(i) IPC, and against A3 under Section 5(1) r/w 6 of the POCSO Act, Section 366 IPC and Section 9 PCMA.

8. Charges framed and accused pleaded not guilty. The prosecution examined PW1 to PW13 marked Exs.P1 to P25 and no material object produced. The accused questioned under Section 313 Cr.P.C. and denied the incriminating circumstances. A2 examined DW1 (his team leader) in support of a plea of alibi and marked his identity card as Ex.D1; DW2 (A3's aunt) and DW3 (A3's sister) examined for A3. They denied that the victim come to their houses.

9. The trial Court held that the victim was a child on the relevant dates; the complaint and FIR were prompt and the delay explained; the victim's evidence cogent and trustworthy as regards A1 and A2 and corroborated by her statement under Section 164 Cr.P.C.; the presumption under Sections 29 and 30 of the POCSO Act stood unrebutted;the investigation was fair; and the defence evidence either interested or lacked material corroboration. As regards A3, the trial Court noted that the allegation of forcible sexual intercourse not made in the Section 164 statement and an improvement at the trial, gave A3 the benefit of doubt under the POCSO Act, but convicted him under Section 366 IPC and Section 9 PCMA.

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10. Mr.N.Palanikumar, learned counsel for A1, submitted that: (a) the FIR registered on 28.06.2024 on the complaint of the victim's mother and contains no allegation against A1, who roped in later as an afterthought; (b) the victim admitted in cross-examination that she was in a live-in relationship, she not told the police about A1 and spoke of A1 only before the Judge, and she married as a minor on 07.04.2025; (c) the victim is not a reliable witness and her evidence is with contradictions and discrepancies; (d) the Investigating Officer (PW11) admitted lapses in the investigation; and (e) the sentence is, in any event, harsh.

11. Mr.V.Paarthiban, learned counsel appearing for A2, submitted that: (a) there are material contradictions among the complaint, statement under Section 161 Cr.P.C., the statement under Section 164 Cr.P.C. (Ex.P3) and the deposition of the victim, which by themselves rebut the presumption under Sections 29 and 30 of the POCSO Act; (b) the victim stated under Section 164 Cr.P.C. the act was witnessed by A2's wife, but PW3, the only person alleged to be present, denied the occurrence and treated as hostile; (c) the Investigating Officer admitted that she recorded the statements of the neighbours but the prosecution not examined them; and (d) the suggestion that the victim had a motive to implicate A2 and his wife was not considered and brushed aside.

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12. Mr.V.Paarthiban, learned counsel appearing for A3, submitted that: (a) as regards Section 366 IPC, even though a girl of seventeen is a child and her consent is immaterial, the intention contemplated by the Section must still be proved; the victim admitted in cross-examination that A3 not compelled her to go to his aunt's house, and her statement under Section 164 Cr.P.C. shows that she left her house on her own and refused to go home, when A3 offered to drop her there; relying on ***S.Varadarajan v. State of Madras*** (AIR 1965 SC 942), he submitted that there is a distinction between "taking" and a girl voluntarily leaving her guardian's protection; (b) as regards Section 9 PCMA, the complaint states that the marriage took place at the Mariamman temple, Udumalpet, while the victim deposed in her examination-in-chief that A3 took her to his sister's house at Munnar and married her there. The Investigating Officer not visited the Temple, not prepared a rough sketch or observation mahazar, not examined any witness there, not recovered the 'Thaali', and filed no proof for the marriage; no independent witness examined; and the victim stated that the police photographed her and asked her to remove the 'Thaali', whereas PW11 said that she was not wearing any 'Thaali' when arrived at the police station. He relied on the unreported decision of this Court in ***Sakthivel v. The State*** (Crl.A.No.675 of 2019, dated 25.02.2021) for the proposition that, in the absence of evidence beyond the victim's statement and recovery of the Thaali, the benefit of doubt must enure to the accused.

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13. Ms.Sharadha Vivek, learned Additional Public Prosecutor, opposed the appeals. She submitted that the victim's evidence is cogent, consistent and corroborated by her statement under Section 164 Cr.P.C. (Ex.P3), the evidence of PW1, the medical records (Exs.P5 and P6), the age-proof documents (Exs.P2 and P7 to P12) and the investigation; that the FIR promptly registered; the Investigating Officer conducted a fair investigation; the offences stand proved beyond reasonable doubt; and the trial Court rightly convicted the appellants.

14. The following points arise for consideration:

(1)Whether the prosecution has proved that the victim was a child on the relevant dates?

(2)Whether the conviction of A1 under Section 5(1) r/w 6 of the POCSO Act and Section 323 IPC can be sustained?

(3)Whether the conviction of A2 under Section 7 r/w 8 of the POCSO Act and Section 506(i) IPC can be sustained?

(4)Whether the conviction of A3 under Section 366 IPC can be sustained?

(5)Whether the conviction of A3 under Section 9 PCMA can be sustained?

(6)What reliefs and consequential directions are warranted?

15.This Court sits as the Statutory Appellate Court and is entitled, and bound, to re-appreciate the evidence. While due weight must be given to the trial Judge's advantage of watching the witnesses, a finding that proceeds on a misreading of the evidence, ignores material circumstances or applies a wrong legal

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test is open to correction. This Court is acutely conscious of the gravity of t allegations and the object of the POCSO Act. The consent of a child is no defence to a sexual act, and a romantic relationship is not a defence. At the same time, the Act does not dispense with proof. Every conviction, however grave the charge, must rest on evidence that proves the case beyond reasonable doubt.

16. The trial Court leaned heavily on the presumptions under Sections 29 and 30 of the POCSO Act. Those presumptions arise after the prosecution established the foundational facts through reliable evidence. They do not relieve the prosecution of that initial burden, and the accused can rebut them by showing that the prosecution evidence is improbable or inconsistent, including through cross-examination. They apply only to offences under Sections 3, 5, 7 and 9 of the POCSO Act. They have no application to the charges under Sections 323, 366 and 506(i) IPC or Section 9 PCMA. The trial Court's blanket resort to the presumption against all three accused, including in the discussion of the child marriage and abduction charges, is not sustainable.

17. The prosecution relied on the X standard mark sheet (Ex.P2), bonafide certificate (Ex.P7), copies of the birth certificate, Aadhaar card, transfer certificate, community certificate and family card (Exs.P8 to P12) and the evidence of PW6, the Headmistress, together with the evidence of PW1 and PW2, to show that the victim was born on 10.07.2007. It is true that PW6 was not the

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Headmistress at the time of admission and that several of the documents are or[illegible] copies. However, the date of birth never seriously disputed by the defence. The memorandum of appeal of A3 itself states that the victim was 17 years old at the relevant time, and no contrary document produced. For the purpose of these appeals, this Court proceeds on the footing that the victim was below 18 years on the dates of the alleged occurrences. Point No.1 is answered accordingly. The appeals are decided not on the question of age, but on whether the prosecution has proved the acts attributed to each appellant.

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18. The case against A1 rests entirely on the evidence of PW2. There is no other witness to the alleged acts of October 2022 or the subsequent occasions. No medical, scientific or electronic evidence connects A1 with the offence. PW2 examined on 28.06.2024, about twenty months after the first alleged act, and the medical evidence (Exs.P5 and P6) records no external injury and the hymen not intact, with no opinion that connects any such finding to A1; as the trial Court itself observed, it is natural. The question is therefore whether the testimony of PW2 against A1 is of such quality that it can safely be acted upon alone. On a careful scrutiny of the record, this Court is unable to hold that it is, for the following reasons.

(a) The origin of the case against A1. The complaint (Ex.P1) and the FIR (Ex.P25) lodged on 28.06.2024 by PW1, on the basis of what the victim told her after returning home. As extracted by the trial Court, Ex.P1 sets out the acts attributed to A2 and A3 alone, and nothing against A1. The case against A1 surfaced

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for the first time in the statement under Section 164 Cr.P.C. (Ex.P3) recorded 18.07.2024, twenty days after the FIR, pursuant to a requisition made by PW11 on 16.07.2024; A1 arrested on the same day, and the offence under Section 5(1) r/w 6 of the POCSO Act brought in by the alteration report (Ex.P22) and the final report of 23.08.2024. It is pointed out that PW2 told the police nothing about A1 and spoke of him only before the Magistrate and then before the trial Judge. The trial Court nevertheless taken Section 164 statement as her "earliest version". That is incorrect. The earliest version is the one given to PW1 and the police on 27/28.06.2024, in which A1 finds no place.

(b) This Court is mindful that child victims frequently delay disclosure, and delay alone would not be a ground to disbelieve a victim. But, in this case, the first alleged act in October 2022, and the disclosure made on 18.07.2024. PW2 not a stranger to the process of complaining; in the interval she, on her own showing, confided in others about her personal relationships and, on the night of 25.06.2024, went to a police station. The explanation that she feared her parents is, in these circumstances, thin, and the delay, though not fatal in itself, is a circumstance that calls for caution when taken together with the other infirmities discussed below.

(c) The nature of relationship, as spoken to by PW2 herself. PW2 deposed that she fell in love with A1 on 08.09.2022; her mother objected because of A1's drinking habits; she attempted to jump into a well, and her relatives stopped her; the families spoke and it was decided to discuss the matter after she attained 18 years; the relationship continued; in 2023, when she questioned him about another girl, he slapped her at the bus stand; and he later blocked her and ended the

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relationship. By her own account the suicide attempt (April 2023) was the result the family's opposition to the relationship, and not of any assault. The trial Court nevertheless treated the suicide attempt as corroboration of her allegation, describing it as "allegedly arising out of the distress caused by A1's conduct". That is a misreading of her evidence and the finding built on it cannot stand.

(d) PW2 deposed that, after A1 "blocked her and ended the relationship", the incident with A2 occurred on 25.06.2024. Yet, according to her own evidence, when she was in distress at the house of PW3 on that day, it was A1 whom she telephoned; he came with a friend, questioned PW3, advised her to go home. This is not the conduct of a person who is being sexually exploited under threat of publication of photographs by that very man, and it is inconsistent with the case that A1 then continuing to threaten her.

(e) The prosecution case is that A1 photographed the act and threatened to upload the photographs. A1 arrested on 18.07.2024. No mobile phone seized from him, no photograph or electronic record recovered or sent for forensic examination, and no such material produced. The place of occurrence, the house of A1, inspected on 19.07.2024 (Ex.P24), about 21 months after the first alleged incident, in the presence of PW9 (A1's mother) and PW10 (his uncle), who did not support the prosecution. The mahazar proves nothing as to what happened in October 2022. PW1, the mother, who knew of the relationship and identified A1 in Court as the person her daughter loved, not spoke of any complaint of sexual abuse against him.

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(f) It is relevant that in the same judgment the trial Court itself found tl PW2 improved her case at the trial against A3, by introducing for the first time the allegation of forcible sexual intercourse that was absent from her statement under Section 164 Cr.P.C., and her statement under Section 164 Cr.P.C. said that she married A3 with her consent. PW3, the alleged eyewitness to the incident involving A2, not supported PW2. The evidence of PW2 found unreliable or not supported on two of the three episodes. This does not, however discarding the evidence against A1. However, it shows that PW2's account varied at different stages, and it means that the evidence against A1 could not be accepted on her sole word without a careful search for independent assurance. P.W2 appears to be have her own way of life, changing her stance and allegation mainly as situation warrants, not disclosed of any penetrative sexual assault by A1 initially but latter gives an improvised version, her evidence is doubtful. The hymen not intact, can be for various other reasons, and that alone cannot be considered against A1 on the facts of the above case. The trial Court, instead, accepted her evidence against A1 on the footing that the defence not shown any motive for false implication and not rebutted the presumption. The absence of motive, however, does not prove guilt, and the presumption could not be pressed into service until PW2's version shown to be reliable. Hence, charge under Section 5(1) r/w 6 of the POCSO Act fails.

(g) The conviction under Section 323 IPC rests on the same testimony. As recorded by the trial Court, PW2 spoke of A1 slapping her at the bus stand in 2023 when she questioned him about another girl, which has nothing to do with the

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incident in October 2022 on which the charge framed. No injury is recorded the medical evidence. This charge also fails.

19. Having regard to the above, this Court holds that the prosecution not proved beyond reasonable doubt the commission of penetrative sexual assault, repeated or otherwise, by A1, nor the offence under Section 323 IPC. The benefit of doubt must enure to A1. The conviction and sentence recorded against A1 cannot be sustained. In view of this finding, it is unnecessary to consider the plea that the sentence was harsh. Point No.2 is answered in favour of A1.

20. The prosecution case against A2 is that on 25.06.2024, at about 7.00 p.m., in the house of PW3, he hugged and kissed the victim while PW3 in the kitchen, and threatened her. The occurrence taken place in a house, in the presence of A2's wife (PW3), with neighbours living around. A comparison of various versions of the victim shows that they are not consistent on material points. According to PW1's deposition, A2 caught hold of her daughter's hand, pulled her, kissed her, threatened to post her photograph and defame her if she told her mother or his wife. In her deposition before the Court, PW2 said that A2 hugged her, kissed her on the cheek, while PW3 witnessed the act; questioned A2, who replied that he done nothing; and he then threatened that, if she disclosed the incident outside, he would do whatever he wanted to her and prevented her from leaving the house. In her statement under Section 164 Cr.P.C., as extracted by the trial Court, A2 came suddenly from behind, pulled her dress, covered her mouth, kissed

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her on the cheek, when PW3 was inside the kitchen, and, when she raised an alar PW3 and the neighbours came and A2 threatened her thereafter.

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21. These versions differ on whether the act done in the sight of PW3 or when she was inside the kitchen; on whether the victim raised an alarm and PW3 and the neighbours came; on the manner of the act; and on the nature of the threat. The trial Court held that there was "no material omission or contradiction". That cannot be reconciled with its own extracts of the three versions. The difference between a version in which the wife of the accused saw the act and a version in which she away in the kitchen is a difference on the very core of the occurrence. PW3, wife of A2, and the only person alleged to have been present, not supported the prosecution. She treated as hostile. Nothing in her evidence supports the alleged hugging and kissing. The Investigating Officer (PW11) deposed in cross-examination that she examined the neighbours living adjacent to the house. The victim has stated that the neighbours came when she raised an alarm. Yet none of them examined. The prosecution not even cited them as witnesses. No explanation offered. An adverse inference under Section 114(g) of the Evidence Act is justified. The only mahazar witnesses examined, PW4 and PW7, speak only of A2 having lived in a house at the place. They give no support to the occurrence.

22. The defence of A2 that he was not at the place at the relevant time. DW1, his team leader at the courier company, deposed, and produced the identity card

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(Ex.D1), that A2 reported for duty between 7.00 and 7.30 a.m. on 25.06.2024 a left only at about 8.10 p.m. The trial Court discarded this because no attendance record or salary slip produced. It is true that a plea of alibi on its own, unsupported, would not displace credible evidence. However, the burden of proving the case is always on the prosecution. The prosecution case itself is that A2 returned home "after finishing half day work", which is not consistent with DW1's evidence and the prosecution did nothing to verify A2's attendance. The alibi, therefore, adds to the doubt that arises from the prosecution evidence, although this Court does not rest its decision on it. The defence suggested that PW2, having told A2's wife that she going to leave with another person, advised by A2 that she should not do wrong, as she a minor, and that he would tell her mother, and the complaint made to take revenge. PW11 denied the suggestion. A denied suggestion is not evidence and this Court does not base any finding upon it. The point is that the absence of an established motive cannot make up for the infirmities noted above. The conviction of A2 under Section 7 r/w 8 of the POCSO Act rests solely on the victim's evidence, which is inconsistent on material aspects and unsupported by the occurrence witness or by the neighbours who must have been the natural witnesses. In these circumstances, the foundational facts are not established and no presumption under Sections 29 and 30 arises. The conviction under Section 506(i) IPC rests on the same evidence, on which, in addition, the account of the threat varies from version to version. Both convictions cannot be sustained. The benefit of doubt must enure to A2. Point No.3 is answered in favour of A2.

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23. Section 366 IPC punishes whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse. The offence therefore requires, first, a kidnapping or abduction and, secondly, the specific intent stated in the Section. Kidnapping from lawful guardianship under Section 361 IPC requires that the minor be "taken or enticed" away. In ***S.Varadarajan v. State of Madras (AIR 1965 SC 942)***, the Hon'ble Supreme Court held that there is a distinction between taking a minor out of the keeping of the lawful guardian and a minor voluntarily leaving the guardian's protection; the mere fact that the accused afterwards helped or accompanied a girl who had left of her own accord does not amount to "taking". The fact that a minor's consent is immaterial does not remove the requirement that the accused must have "taken" or "enticed" her.

24. Applying these principles, on the victim's own evidence she was not taken from her parents' keeping by A3. She left her house on her own at about 10.00 p.m. on 25.06.2024, after the incident at PW3's house, apprehending trouble at home. She herself telephoned A3, told him that her mother was scolding her. In her statement under Section 164 Cr.P.C., she said that when she came out of the police station intending to throw herself before a lorry, A3 saw her and said that he would take her to her house, but she told him she would not go home. Accordingly

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PW2 admits that A3 not compelled her to go to his aunt's house. She stated tl A3's mother and sister suggested that, as it was late, she stay at the aunt's house, and she went. All of this shows that she left of her own accord; A3 not taken or enticed her away from the lawful guardianship of her parents. The following day she travelled with A3 to Munnar, and the trial Court itself noted that, in the Section 164 statement, she said that A3 married her with her consent. Even in her deposition, she said that, after he insisted, she agreed.

25. The trial Court's finding that A3 took the victim away "with the intention of compelling her into marriage and sexual intercourse" cannot be reconciled with the other findings in the same judgment. The trial Court itself held that the allegation of forcible sexual intercourse by A3 not established, because it absent from the Section 164 statement and introduced at the trial, and acquitted A3 of the offence under Section 5(1) r/w 6 of the POCSO Act. The limb relating to forced or seduced "illicit intercourse" thus has no evidential basis. As to the limb relating to compulsion to marry "against her will", the trial Court itself recorded that the victim in her Section 164 statement that A3 married her with her consent. The trial Court's statement that the marriage performed "without the consent of the victim or her parents" is thus not borne out of her own statement, and her parents' consent is irrelevant to the question of the victim's will under this limb. There is, on the whole, no proof of any compulsion or of the intent required by Section 366 IPC. The conviction under Section 366 IPC cannot be sustained. Point No.4 is answered in favour of A3.

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26. Section 9 PCMA punishes a male adult above eighteen years of age who contracts a child marriage. The prosecution required to prove that A3 an adult male, that a marriage in fact contracted, and that one of the parties was a child. The age of the victim is taken as established. The main question is whether the prosecution proved by reliable evidence that a marriage contracted between the victim and A3. On this issue, the evidence consists solely of the statements of PW2 and PW1, the latter being hearsay from PW2. The following circumstances make that evidence unsafe to act upon.

(a) The prosecution relied on no independent witness, whether a priest, a temple functionary, a person who present at the temple, the persons at Udumalpet or Munnar, or anyone else who saw A3 tying the Thaali or who saw the victim wearing it. PW11 stated that she examined Ancy (DW3), recorded her statement, yet she not examined by the prosecution, and she denied in Court that she ever examined by the police or that the victim came to her house. The Investigating Officer not visited the Mariamman temple at Udumalpet, not prepared an observation mahazar or rough sketch there, and not make any inquiry of anyone there. The trial Court dismissed such matters as minor lapses. They cannot be so treated where the very fact of the marriage rests only on the victim’s statement.

(b) The Thaali, the central object of the alleged marriage, never recovered or produced. PW2 deposed that, on reaching the police station, the police photographed her, asked her to remove the Thaali she was wearing. No such

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photograph produced. PW11, on the other hand, deposed in cross-examination t the victim not wearing a Thaali, when she came to the police station. This conflict between the victim and the Investigating Officer on whether the victim wore the Thaali at the Police Station has not been resolved. The prosecution produced no documentary evidence of the marriage. Where the prosecution case is that the victim had a Thaali tied and wore it to the police station, the failure to recover and produce it, or the photograph, is a serious gap.

(c) There is also a conflict, as pointed out by counsel, on the place of the marriage. The complaint speak of a marriage at the Mariamman temple at Udumalpet, whereas, PW2 deposed in her examination-in-chief that A3 married her at his sister's house at Munnar. The trial Court's summary of her deposition appears to record that she spoke of the temple. This Court does not need to resolve whether this is a real contradiction, since the conclusion on this Point rests on the other infirmities. The trial Court held that the victim's evidence on the marriage "consistent with the procedural evidence including the observation mahazar (Ex.P14 and Ex.P15)", it was corroborated by "mahazars and sketches (Ex.P14, P15)". This was an error. Ex.P14 is the mahazar of the house of the aunt at Amaravathi Nagar and says nothing about any marriage at a temple or at Munnar. Ex.P15 is the second signature of PW8 in the confession statement of A3. A confession made to a police officer cannot be proved against the accused under Section 25 of the Evidence Act, and no recovery under Section 27 is relied on.

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Neither document can corroborate the alleged marriage, and the trial Court wrongly treated them as doing so.

(d) The same witness, PW2, found by the trial Court to have improved her case on the connected allegation of sexual intercourse against A3. Her statement under Section 164 Cr.P.C. that she married A3 with her consent and that he committed no sexual act is also at variance with the picture of coercion which the trial Court accepted for the purpose of Section 9. In such circumstances, her sole testimony, unsupported by any independent witness, document or recovery, is insufficient to prove beyond reasonable doubt that a marriage contracted. Although A3's age is entered in the cause title of the trial Court's judgment, no finding that A3 was above eighteen years was recorded and no evidence on it specifically referred to. This is a further gap, though not the foundation of the present decision.

27. The facts of the case are, in substance, similar to those in Sakthivel v. The State (Crl.A.No.675 of 2019, dated 25.02.2021), cited by learned counsel, where this Court gave the benefit of doubt for an offence under Section 9 PCMA where there was no evidence apart from the victim's statement and the Thaali not recovered. The principle it applies, that the prosecution must prove the marriage by reliable evidence, is in any event a matter of first principles. The prosecution not discharged that burden. The conviction of A3 under Section 9 PCMA cannot be sustained. Point No.5 is answered in favour of A3.

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28. Since the convictions are set aside, the sentences, including the fi cannot survive, and the fines paid by the appellants have to be refunded. The direction regarding compensation of Rs.4,00,000/- to the victim made under Section 33(8) of the POCSO Act, in addition to the punishment and as a consequence of the convictions. It is not an amount payable by the accused, and the victim is not a party to these appeals. In view of the acquittals, that direction cannot be sustained as an order under Section 33(8) of the POCSO Act. However, the victim had no part in the infirmities in the prosecution case. If any amount has already been disbursed to her pursuant to the trial Court's order, it shall not be recovered from her. The decision is that, on the evidence adduced and for the reasons given, the prosecution has not proved the charges against any of the appellants beyond reasonable doubt, and that the appellants are entitled to the benefit of doubt.

29. In the result, the Criminal Appeals are allowed. The conviction and sentence imposed on the appellant, by Judgment, dated 02.03.2026, in Spl.S.C.No.158 of 2024, on the file of the Sessions Magalir Neethimandram (Fast Track Mahila Court), Tiruppur, are set aside and the appellants are acquitted of all the charges.

(i) The fine amount paid by the appellants, viz., Rs.11,000/- by A1 and Rs.5,000/- each by A2 and A3, shall be refunded to them on proper application and in accordance with law.

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(ii) The appellants shall be released forthwith from the Central Pris(Coimbatore (A1) and the Central Prison, Salem (A2 and A3), unless their custody is required in connection with any other case. The bail bonds, if any, executed by the appellants stand cancelled.

(iii) The direction in the impugned judgment for payment of compensation of Rs.4,00,000/- to the victim under Section 33(8) of the POCSO Act is set aside, No amount that has already been disbursed to the victim shall be recovered from her. Consequently, the connected miscellaneous petition is closed.

30.10.2026

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No
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Note: Issue Order Copy on 03.11.2026.

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To

1. The Sessions Judge,
   Magalir Neethimandram (Fast Track Mahila Court),
   Tiruppur.

2. The Superintendent,
   Central Prison,
   Coimbatore.

3. The Superintendent,
   Central Prison,
   Salem.

4. The Inspector of Police,
   All Women Police Station,
   Kangayam, Tiruppur District.

5. The Public Prosecutor,
   High Court, Madras.

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M.NIRMAL KUMAR, J.

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Pre-Delivery Judgments made in

CRL.A.Nos.342, 1196 & 1197 of 2026

30.10.2026

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