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CRL A No. 483 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-02-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL A No. 483 of 2023

Ravi @ Dhanapal

..Appellant

Vs

The State Rep By
The Inspector of Police,
Mettupalayam Police Station,
Puducherry.
Cr.No.36 of 2021.

..Respondent

Prayer: Criminal Appeal filed under Section 374(2) of Code of Criminal Procedure, to set aside the Judgment of conviction and sentence in Spl.S.C.No.46 of 2021 dated 16.03.2023 on the file of learned Special Judge under the POCSO Act, 2012, Puducherry and allow the Criminal Appeal as against the appellant.

For Appellant:

M/s.P.Pandiyaraj

For Respondent:

Mr.M.V.Ramachandra Murthy
Public Prosecutor (Pondicherry)

**Judgment**

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This Criminal Appeal has been filed by the accused, challenging the judgment dated 16.03.2023 in Spl.SC.No.46 of 2021 on the file of the learned Special Judge under the POCSO Act, 2012, Puducherry, by which he was convicted for the offence under Section 12 of POCSO Act, 2012 and Sections 294(b), 324 and 354 of the IPC and sentenced as follows:

Offence under Section	Sentence imposed
294(b) IPC	To undergo SI for one month.
324 IPC	To undergo RI for six months.
354 IPC	To undergo RI for one year and to pay a fine of Rs.1,000/-, in default to undergo SI for three months.
Section 12 of the POCSO Act, 2012	To undergo RI for two years and to pay a fine of Rs.1,000/- in default to undergo SI for three months.
The sentences were ordered to run concurrently.	

2.(i) The case of the prosecution is that on 21.02.2021 at about 15.30 hours, on account of prior enmity, the appellant abused the victim minor girl, aged about 16 years and her mother in filthy language; that the appellant had caused simple hurt to the victim by biting the left hand of the victim girl; that he pulled the shawl of the victim girl to outrage her modesty and thereafter exposed his private part by opening his trouser zip; and thus, committed the aforesaid offences.



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(ii) On the complaint [Ex.P1] made by the victim [PW1], an FIR was registered on 12.03.2021 by PW11, the Sub-Inspector of Police for the offence under Section 12 of POCSO Act, 2012 and Sections 294(b), 324 and 354 of the IPC. PW11 conducted the investigation, made arrangements to record the Section 164(5) Cr.P.C. statement of the victim, obtained the Accident Register [Ex.P6] of the victim, examined the other witnesses and filed the final report against the accused for the aforesaid offences, before the learned Special Judge under the POCSO Act, 2012, Puducherry.

(iii) 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.46 of 2021 by the learned Special Judge under the POCSO Act, 2012, Puducherry. The trial Court framed the charges against the accused for the offence under Section 12 of POCSO Act, 2012 and Sections 294(b), 324 and 354 of the IPC. During the trial, when questioned, the accused pleaded 'not guilty'.



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(iv) Before the trial Court, the prosecution had examined 11 witnesses as P.W.1 to P.W.11 and marked 12 exhibits as Ex.P1 to Ex.P12, besides one material object, i.e., M.O.1 [DVD]. 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.

(v) On appreciation of oral and documentary evidence, the trial Court found the appellant guilty of all the charges levelled against him and convicted 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. The learned counsel for the appellant would submit that the alleged occurrence took place on 21.02.2021 and the complaint was lodged on 12.03.2021; that even on 21.02.2021 when PW1 and the victim went to the police station, they did not complain of any of the alleged acts of the appellant, relating to biting of the hand or exposing his private part;



that PW3, who is the brother of the victim, would state that there was a panchayat held between the appellant and the victim's mother [PW2] relating to a money dispute; that PW1 herself had admitted that there was a money transaction between the appellant and the victim's mother [PW2]; that the evidence of the doctor [PW6] would show that there is nothing to suggest that the victim sustained bite injuries; that the evidence of the investigating officer would suggest that the allegations relating to Section 12 of the POCSO Act and Section 354 of the IPC, are an afterthought; and that the impugned judgment is liable to be set aside and prayed for acquittal.

4. The learned Public Prosecutor [Puducherry] *per contra* submitted that there is a delay in lodging the complaint; that the fact that the victim sustained injuries in the hand has been proved by the prosecution by marking the Accident Register [Ex.P6] through the Doctor [PW6]; that the doctor had observed that there was redness seen over her left forearm and therefore the delay itself cannot be the basis to acquit the appellant; and prayed for dismissal of the appeal.



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5. (i) As stated earlier, the prosecution examined 11 witnesses.

PW1 is the victim. PW2 is the mother of the victim; PW3 is the brother of the victim; PW4 is the witness who had allegedly heard the appellant and the victim engaged in a heated conversation. PW5 is the witness to the observation mahazar [Ex.P5]. PW6 is the doctor who had treated the victim [PW1] on 21.02.2021 and had issued Accident Register / Medicolegal Examination report [Ex.P6]. PW7 is the Social Worker in the Child Welfare Department and he was present when the statement of the victim was recorded by the Sub-Inspector of Police. PW8 is the videographer who had video-graphed the said statement. PW9 is the Sub Inspector of Police, who had recorded the statement of the victim. PW10 is the Sanitary Officer of the Corporation, who had marked the birth certificate [Ex.P8] of the victim. PW11 is the Sub Inspector of Police, who had filed the final report.

6. Admittedly, the alleged occurrences took place on 21.02.2021. The complaint was lodged only on 12.03.2021. The investigating officer [PW11] would admit in his cross-examination that although PW1 to PW3



came to the police station on 21.02.2021, none of them had stated about the appellant exposing his private part or about the appellant outraging the modesty of PW1. In fact, the investigating officer also admitted that the parties entered into a compromise and did not wish to give any complaint. The evidence of PW11 suggests that there was a wordy altercation between the appellant on the one hand and the witnesses on the other hand. Further though in Ex.P6, which is the Accident Register recorded by the Doctor [PW6] it is stated that a known person had bitten the victim, there is no reference to any of the other alleged acts by the appellant. In fact, the Doctor [PW6] in her cross-examination would state that on examination there were no symptoms of bite marks on the hand. It is in the light of the above facts and circumstances that we have to examine the evidence of the victim and her mother.

7. PW2 would state that there was an altercation between the appellant and the victim on 21.02.2021. She would state that she went to lodge a complaint on 21.02.2021 and the police did not take any action and directed both parties to compromise the issue amongst themselves. This is contrary to the evidence of the investigating officer [PW11], who



would state that the witnesses came to the police station and did not lodge any complaint. PW2 would also admit in her cross-examination that she had not told the police about the act of the appellant in exposing his private part. PW1, the victim, would also state that the entire incident was video-graphed by her brother [PW3], including the act of the appellant in exposing his private part. However, she had not produced any such evidence to the police. PW3, the brother of the victim, would state that there was a money dispute between the appellant and PW2 and there was a panchayat held to resolve the said issue.

8. From the above evidence, it would be clear that the witnesses first went to the police station on the date of occurrence and they had not informed about any of the alleged occurrences to the police. It is the version of PW1 that once again the appellant came to her house and created an issue and therefore, they gave a complaint on 12.03.2021. However, this evidence is contrary to the prosecution case, as per which there was only one occurrence. Thus no explanation has been offered by any of the witnesses for the delay in the complaint.



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9. The allegation with regard to the act of the appellant in exposing his private part appears to be an afterthought as their version is highly improbable. There was no reason why they did not disclose the act of the appellant when they went to the police station on 21.02.2021 considering the seriousness of the act. The evidence only suggests that there was an altercation between the appellant and the victim on the one hand and the witnesses on the other hand regarding a monetary dispute, on the day of occurrence.

10. The complaint appears to be an exaggerated version given after 20 days. The Doctor who treated the victim on the date of occurrence would state that there were no symptoms of bite marks. Considering all the circumstances, this Court is of the view that it would be highly unsafe to convict the appellant on the basis of the evidence of the witnesses.

11. It is well settled that if the FIR is brought into existence long after the occurrence, the entire fabric of the prosecution case would collapse. In *Marudanal Augusti vs State Of Kerala* reported in (1980) 4



CRL A No. 483 of 2023

SCC 425, the Hon'ble Supreme Court has held as follows.

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“The High Court seems to have overlooked the fact that the entire fabric of the prosecution case would collapse if the F.I.R. is held to be fabricated or brought into existence long after the occurrence and any number of witnesses could be added without there being anything to check the authenticity of their evidence.”

The above observation would squarely apply to the facts of this case.

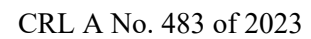
Hence, this Court is inclined to set aside the impugned judgment of conviction and sentence.

12. Accordingly, the Criminal Appeal stands allowed. The conviction and sentence imposed upon the appellant vide judgment dated 16.03.2023 by the learned Special Judge under the POCSO Act, 2012, Puducherry, in Spl.SC.No.46 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.

13-02-2026

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

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1. The Sessions Judge,
Special Judge under the POCSO Act, 2012,
Puducherry.

3. The Public Prosecutor, Puducherry.



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CRL A No. 483 of 2023

SUNDER MOHAN J.

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CRL A No. 483 of 2023

13-02-2026

Page 12 of 12