



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-02-2026

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CRL A No. 663 of 2023

Surya @ Jaya Surya, S/o.Ravi

Appellant(s)

Vs

State Rep. By Inspector of Police
AWPS, Vandavasi,
Thiruvannamalai District.
(Crime No. 4 of 2017)

Respondent(s)

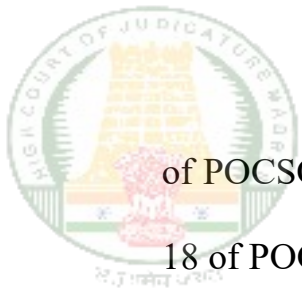
PRAYER: Criminal Appeal filed under Section 374 (2) Cr.P.C., to call for the records in Spl.S.C.No.32 of 2019 on the file of learned Special Court for Exclusive Trial of Cases under POCSO Act, Thiruvannamalai and set aside the judgment dated 09.03.2023 made in Spl.S.C.No.32 of 2019.

For Appellant(s): Mr. P.M.Basil

For Respondent(s): Mr.S.Rajakumar
Additional Public Prosecutor

J U D G M E N T

This criminal appeal has been filed challenging the judgment dated 09.03.2023 passed in Spl.S.C.No.32 of 2019 by the learned Special Court for Exclusive Trial of Cases under POCSO Act, Thiruvannamalai, convicting him for the offences under Sections 451 and 354 of IPC and Section 9 (g), (i) r/w 10



of POCSO Act 2012 and Section 376(D) r/w 511 and Section 5(g), (i) r/w 6 r/w 18 of POCSO Act 2012 and sentencing him as follows:

Offence under Section	Sentence imposed
451 IPC	To undergo RI for 2 years and to pay a fine of Rs.500/-, in default to undergo SI for 2 months.
354 IPC	To undergo RI for 1 year and to pay a fine of Rs.500/-, in default to undergo SI for 1 month.
9(g)(i) r/w 10 POCSO Act, 2012	To undergo RI for 7 years and to pay a fine of Rs.500/-, in default to undergo SI for 1 year.
376(D) r/w 511 IPC and 5(g)(i) r/w 6 r/w 18 POCSO Act, 2012	To undergo RI for 10 years and to pay a fine of Rs.500/-, in default to undergo SI for 1 year.
Sentences are ordered to run concurrently.	

2. (i) The case of the prosecution is that the accused, along with the juvenile accused, on 07.04.2017, went to the house of the victim; that when the victim was alone, the accused committed sexual assault by biting the victim's breast and lips; and attempted to commit rape and penetrative sexual assault upon the victim.

(ii) On the complaint given by the father of the victim (PW3), an FIR was registered on 12.04.2017 by PW9 for the offences under Sections 354 and 506(i) of the IPC and Section 8 of the POCSO Act. PW9 made arrangements for recording the victim's statement under Section 164(5) of the CrPC and thereafter handed over the investigation to PW10. PW10 examined the witnesses and filed the final report against the appellant for the offences under Sections 448, 354A, 506(ii), and 376 read with Section 511 of the IPC, and



Sections 7 and 8 of the POCSO Act, before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thiruvannamalai. A separate final report was filed before the Juvenile Justice Board in respect of the juvenile accused.

(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.32 of 2019 by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thiruvannamalai, for trial. The Trial Court had framed charges against the accused for the offences under Sections 451, 506(ii), 354 of IPC and Section 9(g),(i) r/w 10 of POCSO Act 2012 and 506(ii) of IPC and Section 376(D) r/w 511 and Section 5(g)(i) r/w 6 r/w 18 of POCSO Act, 2012 and when questioned, the accused pleaded 'not guilty'.

(iv) To prove its case, the prosecution examined PW1 to PW10 and marked Exhibits P1 to P10. 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) The trial Court found the appellant guilty of the offences and imposed the sentence as stated above. Hence, the accused has preferred the instant appeal challenging the said conviction and sentence.

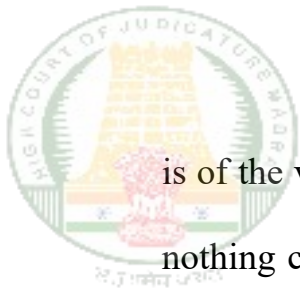
3. The learned counsel for the appellant submitted that the complaint was lodged five days after the alleged occurrence; that no explanation was offered by the prosecution for the delay in lodging the complaint; that in any event, the evidence of the Doctor would show that no offence of penetrative sexual assault or rape was committed either by the appellant or by the juvenile accused; and that in view of the inconsistent statements, the impugned judgment is liable to be set aside.

4. *Per contra*, the learned Additional Public Prosecutor submitted that the juvenile accused was found guilty and was dealt with under the provisions of the Probation of Offenders Act; that the evidence of the victim is cogent and convincing; and that nothing was elicited in her cross-examination to disbelieve her testimony. He further submitted that minor contradictions would not render the prosecution witnesses unreliable and justified the conviction and sentence imposed on the appellant.



5. As stated above, the prosecution examined ten witnesses. PW1 is the Doctor who examined the appellant and issued Ex.P1, the Potency Certificate. PW2 is the Forensic Expert who issued Ex.P2 and stated that no spermatozoa were detected. PW3 is the father of the victim, who, upon noticing injuries on the victim, questioned her, and the victim disclosed the occurrence to him on 12.04.2017, after which the complaint was lodged. PW4 is the victim. PW5 is the Assistant Headmistress of the school where the victim studied, who issued the School/Educational Certificate mentioning the date of birth of the victim as 20.11.2002. PW6 is the observation mahazar witness. PW7 is the Doctor who examined the victim and made entries in the Accident Register marked as Ex.P6. PW8 is the Inspector of Police, who had conducted the initial part of the investigation. PW9 is the Sub Inspector, who registered the FIR. PW10 is the Investigating Officer, who filed the final report.

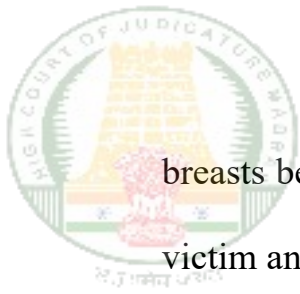
6. The prosecution case is that the appellant, along with the juvenile accused, committed sexual assault by fondling the victim's breast and biting it. It is to be noted that the victim did not immediately disclose the incident to her father. The victim's explanation for not informing her father immediately was that she was reluctant to inform PW3, her father. PW3, in his deposition, has stated that the victim told him that she had pain in her chest and only on further inquiries, the victim revealed about the occurrence to him. Therefore, this Court



is of the view that the delay has been properly explained by the prosecution and nothing can be inferred in favour of the appellant only because there is a delay of five days in lodging the complaint.

7. It is the case of the prosecution that the victim was born on 20.11.2002 and she was studying in 8th standard in a Government Higher Secondary School at the time of occurrence. The Assistant Headmistress of the School was examined as PW5 and she had issued the age certificate [Ex.P4]. Nothing has been elicited in the cross-examination of the Assistant Headmistress [PW5] to disbelieve the certificate [Ex.P4] issued by her. The victim herself has stated that she was studying in 8th standard. Therefore, this Court is of the view that the prosecution had established the age of the victim and that she was a child at the time of the occurrence.

8. As stated earlier, it is the case of the prosecution that the appellant and the juvenile accused had committed sexual assaults at the same time and attempted to commit penetrative sexual assault and rape. It is the version of the victim in her deposition before the Court that in the year 2017, when the victim was studying in 8th standard, the appellant and the juvenile accused came to her house, when no one else was at home; that they removed their dresses and the dress of the victim; that the appellant had first hugged her and also fondled her



breasts besides biting it; and that the juvenile accused also laid himself over the victim and fondled the breasts.

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9. Though an elaborate cross-examination was conducted by the defence and elicited minor contradictions such as the fact that the victim had stated before the police that the appellant had placed his private part on the private part of the victim, has not been stated by the victim in her deposition and that therefore, victim had given an exaggerated version. This Court is of the view that the said contradictions by itself does not render the victim's evidence unreliable.

10. That apart, the Doctor who had examined the victim and the medical examination report [PW7] had observed that there were bite marks on her lips and her breasts, besides scratch marks in one of her breasts. The doctor [PW7] therefore opined that the victim had been subjected to sexual assaults and there were no injuries in the genital region in her final opinion, which was marked as Ex.P6. PW3, the victim's father had deposed that he had taken the victim to the hospital on 12.04.2017 as the victim complained of pain in the chest.

11. All the above evidences would conclusively prove that the victim was subjected to sexual assaults and there was an attempt to commit penetrative



sexual assault. It is also reported by the learned Additional Public Prosecutor that the juvenile accused in conflict with the law was tried by the Juvenile Court and he was also found guilty and was dealt with under the provisions of the Probation of Offenders Act.

12. Therefore, for all the above reasons, this Court is of the view that the prosecution has established all the charges against the appellant. However, considering the age of the appellant, the fact that the complaint was lodged belatedly and the opinion of the Doctor [PW7] that the victim was subjected to only sexual assault and there were no injuries in the genital parts of the victim, this Court is of the view that the interest of justice would be met if the sentences imposed by the trial Court, are reduced.

13. Accordingly, it is ordered as follows:

(a) The sentences imposed for the offences under Sections 451 and 354 of the IPC, are confirmed.

(b) The appellant is sentenced to undergo 5 years RI instead of 7 years RI imposed by the trial Court for the offence under Section 9(g)(i) r/w 10 of the POCSO Act. The fine amount imposed and the default sentence remain unaltered.



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(c) The appellant is sentenced to undergo 5 years RI instead of 10 years RI imposed by the trial Court for the offence under Section 376(D) r/w 511 of the IPC and 5(g)(i) r/w 6 r/w 18 of the POCSO Act. The fine amount imposed and the default sentence remain unaltered.

(d) The sentences are ordered to run concurrently.

(e) The fine amount already paid, if any, shall be adjusted against the fine amount imposed now.

(f) The period of sentence already undergone by the appellant shall be set off under Section 428 Cr.P.C.

14. This Criminal Appeal is partly allowed.

10-02-2026

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

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CRL A No. 663 of 2



SUNDER MOHAN, J.

Maya/ars

To

1.The Special Court for Exclusive Trial of Cases
under POCSO Act, Cuddalore.

2.The Inspector of Police,
Vandavasi All Women Police Station,
Tiruvannamalai District.
Crime No.4/2017

3.The Public Prosecutor,
High Court, Madras.

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