



Crl.A.No.544 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.03.2026

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.No.544 of 2022

Ajithkumar

.... Appellant

Vs

State by the Inspector of Police,
Erode Town Police Station,
Erode.
(Crime No.416 of 2019)

.... Respondent

Prayer: Criminal Appeal is filed under under Section 374(2) of Criminal Procedure Code, to call for the entire records in connection with the Spl.S.C.no.38 of 2019 on the file of the learned Sessions Judge, Mahalir Neethi Mandram (Fast Track Mahila Court), Erode and set aside the conviction and sentence imposed by the learned Sessions Judge, Mahalir Neethi Mandram (Fast Track Mahila Court), Erode in Spl.S.C.No.38 of 2019 dated 25.03.2022.

For Appellant : Mr.S.Arivazhagan

For Respondent : Mr.L.Baskaran
Government Advocate (Crl.Side)

**JUDGMENT**

WEB COPY This Criminal Appeal has been preferred as against the Judgment passed in Spl.S.C.No.38 of 2019 dated 25.03.2022 on the file of the Sessions Judge, Mahalir Neethi Mandram (Fast Track Mahila Court), Erode, thereby convicting the accused for the offences punishable under Section 363 of IPC and Section 5(1) read with 6 of the Protection of Children from Sexual Offences Act, 2012.

2. The case of the prosecution is that the minor victim is aged about 17 years. While she was studying 12th Standard, the accused had developed a close relationship with her. While being so, on 07.11.2018, under the pretext of marriage, the accused had physical relationship with the minor victim girl. Subsequently, on 07.06.2019, he kidnapped the victim girl from the custody of her parents and took her to a rented house and they stayed there together. On 12.06.2019, he married the victim girl and lived together till 30.06.2019 and during the said period, he had committed aggravated penetrative sexual assault on the victim girl.

3. On the basis of the complaint, the respondent registered an FIR in Crime No.416 of 2019 for the offence punishable under Section 366 of IPC and Section 9 of the Prohibition of Child Marriage Act, 2006



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and Section 5(l) read with Section 6 of the Protection of Children from Sexual Offences Act, 2012. After completion of the investigation, the respondent filed the final report and the same has been taken cognizance by the Trial Court. The Trial Court framed the charges against the accused for the offences under Section 366 of IPC, Section 9 of the Prohibition of Child Marriage Act, 2006 and Section 5(l) read with 6 of the Protection of Children from Sexual Offences Act, 2012.

4. In order to bring home the charges, the prosecution had examined P.W.1 to P.W.14 and marked Exs.P1 to P25. The prosecution also produced material object as M.O.1. On the side of the accused, no witnesses were examined and no documents were marked to disprove the charges.

5. On perusal of the oral and documentary evidence, the Trial Court found the accused guilty of the offence punishable under Section 363 of IPC and sentenced him to undergo three years rigorous imprisonment and to pay a fine of Rs.1,000/- in default, to undergo three months simple imprisonment. The accused was also convicted for the offence under Section 5(l) read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 and sentenced him to undergo



20 years of rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo three months simple imprisonment. Aggrieved by the same, the present appeal has been filed.

6. The learned counsel appearing for the appellant would submit that it is the case of love affair and the victim girl fell in love with the accused. Thereafter, they got married and lived together as husband and wife in a separate house. During the said period, they had a physical relationship. Therefore, it would not amount to kidnap or aggravated penetrative sexual assault. The prosecution failed to prove the age of the victim, and as such, no offence was made out. The victim herself deposed that she was aged about 18 years and that she fell in love with the accused and willingly married him. Even then, the Trial Court mechanically convicted the accused.

7. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent submitted that the accused had committed penetrative sexual assault on the minor victim girl. In order to prove the age of the victim girl, the prosecution had marked the birth certificate of the victim as Ex.P14. The minor victim girl categorically deposed that he kidnapped and committed penetrative sexual assault on her. It is also



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corroborated with the medical evidence. The Doctor, who examined the victim, deposed as P.W.8 and she also recorded the Accident Registers of the victim, which were marked as Exs.P8 and P9. The statement of the victim was recorded under Section 164 of Cr.P.C and the same was marked as Ex.P6. All the evidences, Accident Register and 164 of Cr.P.C statement, corroborate each other. Accordingly, the prosecution proved the charges beyond any doubt. Hence, the Trial Court rightly convicted the accused and the same does not warrant any interference of this Court. While the accused's sentence was suspended by this Court, the accused had committed another similar offence as against another minor victim girl and the Inspector of Police, All Women Police Station, Erode, registered an FIR in Crime No.4 of 2026 for the offences under Sections 87 of the Bharatiya Nyaya Sanhita, 2023 and 5(1), 6, 11(5), 12 and 15(2) of the Protection of Children from Sexual Offences Act, 2012. Subsequently, the accused was branded as sexual offender and detained under Act 14 by detention order dated 23.02.2026.

8. Heard the learned counsel appearing on either side and perused the materials available on record.



9. The accused projected the case as if it was a love affair between the accused and the victim. They had gotten married and thereafter, they had lived together and had been in a physical relationship. Further, he also disputed the age of the victim girl. At the time of occurrence i.e., 07.11.2018, the victim girl was only 16 years. The victim's date of birth was 10.03.2003. The birth certificate of the victim is marked as Ex.P14. Therefore, the victim girl was a minor and the charges under the POCSO Act are clearly attracted as against the accused. Under the pretext of love affair, on 07.11.2018 itself, the accused committed aggravated penetrative sexual assault on the victim girl. When the parents of the accused were not available in his house, he had dragged the victim to his house and had committed aggravated penetrative sexual assault on her. Immediately, the mother of the victim girl lodged a complaint as against the accused. However, no action was taken as against the accused at that time. Once again, the accused had gifted a cell phone to the victim and kidnapped her on 07.06.2019. Under the pretext of marriage, he had tied Thali and had dragged her to a separate house and they had lived together till 30.06.2019. During that period, the accused continued the relationship and thereby committed aggravated penetrative sexual assault on her. The victim girl deposed as P.W.7.



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10. On the basis of the complaint, the respondent registered an FIR. Thereafter, the victim girl was subjected to medical examination. The Doctor examined her and recorded the Accident Registers and the same were marked as Exs.P8 & P9. The Accident Registers reveal that the hymen of the victim was not intact and that there was a possibility of rape ; a urine pregnancy test was also advised. Further she was advised to get a radiologist opinion for confirmation of her age. Vaginal swab and pubic hair specimen were taken and sent for analysis. The Radiologist's report, which was marked as Ex.P11, shows that the victim girl was aged about 18 years and below 20 years, as on 05.07.2019. Therefore, on the date of occurrence i.e, 07.11.2018, she was a minor. In order to prove her age, the birth certificate was also marked. Thereafter, her statement was recorded under Section 164 of Cr.P.C and the same was marked as Ex.P6. The victim girl deposed as P.W.7. The relevant portion of her deposition reads as follows :

நான் +1 படித்துக் கொண்டிருந்தபோது பழக்கார தெரு பள்ளி வாசலில் இருந்து பஸ் ஏறுவேன். அப்போது அஜீத் என்ற பையன் தினமும் என்னை வந்து பார்ப்பான். பஸ் பின்னாடி வருவான். ஒரு நாள் ஸ்கூல் விட்டு நான் இறங்கி வந்த போது எனது போன் நம்பர் கேட்டான். நானும் போன் நம்பர்



கொடுத்தேன். அன்று சாயந்திரமே போன் செய்தான். என் அம்மாவுடைய போன் நம்பர் 97913 77576 யைக் கொடுத்தேன். அன்று சாயந்திரம் என்னிடம் போன் செய்து உன் பெயர் என்ன, உன்னை நான் லவ் பண்ணுறேன், என்னுடைய பேமிலி ஹிஸ்டரி யைக் கேட்டான். நானும் எல்லாமே சொன்னேன். என்னை மிகவும் பிடித்து விட்டதாக சொன்னான். நான் இல்லை வேண்டாம், எனது அம்மா ஏற்கனவே கஷ்டப்பட்டு விட்டார்கள் அதனால் வேண்டாம் என்று சொன்னேன். என்னை பிரைன் வாஷ் செய்தான். கொஞ்ச நாள் போகப்போக பேசிப்பழகி நானும் லவ் பண்ணுகிறேன் என்று சொன்னேன். கொஞ்ச நாள் கழித்து வா வெளியில் போகலாம் என்று கூப்பிட்டான். நான் வேண்டாம் என்று சொன்னேன். என்னை கட்டாயப்படுத்தி ஆகஸ்ட் 15 அன்று வெளியில் அழைத்துச் சென்றான். பூமுகுகன் டாக்கிஸ் பெருந்துறைக்கு படத்திற்கு போனோம். அதன் பிறகு அம்மா ஊரில் இல்லை என்று நீ வீட்டிற்கு வா என்று சொல்லி கட்டாயப்படுத்தி கூப்பிட்டான். நான் வேண்டாம் என்று சொல்லி கேட்கவில்லை. நவம்பர் 7 ம் தேதி விடியற்காலை 3 மணிக்கு வந்து என்னை வீட்டிற்கு கூட்டிப் போனான். கொஞ்ச நேரம் பேசிக் கொண்டிருந்தோம். உன்னை கைவிடமாட்டேன் என்று ஆசை வார்த்தை கூறி கட்டாயப்படுத்தி என்னுடன் செக்கவல் அபேர் வைத்துக் கொண்டான். அன்று விடியற்காலை 5.30 மணிக்கு அம்மாவிற்கு விசயம் தெரிந்து அஜீத்தின் நம்பருக்கு அம்மா போன் செய்தார். என் அம்மாவிற்கு தெரிந்துவிட்டது என்று பயந்து என்னை வீட்டில் விடச் சொன்னேன். அவரும் என்னை வீட்டில் விட்டு விட்டார். என் அம்மா என்னைக் கண்டித்தார். போலீசில் புகார் கொடுத்தார். ஒரு வாரம் பேசாமல் இருந்தோம். மீண்டும் பேச ஆரம்பித்தோம். இடையில் கொஞ்ச நாள் வெளியில் போனோம். ஐஸ்கிரீம் பார்லர், பறவைகள் சரணாலயம் ஆகிய இடத்திற்கு சென்றோம். என்னுடைய 17 வது பர்ட் டே அன்று Vivo போன் ஒன்று வாங்கிக் கொடுத்தார். அம்மாவிற்கு தெரியாமல் அந்த போனில் பேசிப் பழகி வந்தோம். என் அம்மாவிற்கு தெரிந்து அந்த போனையும் பிடிங்கிக் கொண்டார். மறுபடியும் குட்டி கீ பேடு கொண்ட சாம்சங் போன் ஒன்றை வாங்கிக் கொடுத்தார். என் அம்மா கண்டிக்கிறார்கள் வேண்டாம் என்று சொன்னேன். அதனால் வா போய் கல்யாணம் பண்ணிக்கலாம் என்று சொன்னான். நான் வேணாம் என்று சொன்னேன் கட்டாயப்படுத்தி என்னை கூட்டி போனான். 07.06.2019 ம் தேதி சாயங்காலம் 5.30 மணிக்கு வீட்டை விட்டு ஆசை வார்த்தை சொல்லி கூட்டிப் போனான். நேராக திருச்செங்கோடு போய் ஹோட்டலில் சாப்பிட்டோம். சேலம் பஸ் ஏறி சின்ன சேலம் போனோம். சின்ன சேலத்தில் அவரின் பிரண்ட் என்னை கூட்டிகொண்டு போய் அவருடைய வீட்டில் எங்களை தங்க வைத்தார். அவரின் நண்பர் பெயர் ராஜாராம். அவரின் மனைவியும் இருந்தார். ராஜாராமின் பிரண்டு மாயன் வந்து செல்வார். 12.06.2019 ம் தேதி முருகன் கோவிலில் எனக்கு விருப்பம் இல்லாமல் என்னை கட்டாயப்படுத்தி திருமணம் செய்து கொண்டார். அன்றிலிருந்து ஒவ்வொரு இரவும் என்னுடன் செக்கவல் அபர் வைத்துக் கொண்டார். 1 மாதமாக அதே மாதிரி அங்கு இருந்தோம். 4 ம் தேதி



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11. Thus, it is clear that the deposition of P.W.7 is clearly corroborated by her statement recorded under Section 164 of Cr.P.C and also the Accident Registers which were marked as Exs.P6 and P8 respectively. The Doctor, who examined the victim, was examined as P.W.8 and she deposed that the hymen of the victim was not intact and there was a possibility of rape. The medical report was marked as Ex.P9 and final opinion was marked as Ex.P10. Though the Doctor did not find any injuries on the genitalia of the victim, the medical and oral evidence on record clearly establish that the accused had committed aggravated penetrative sexual assault on the victim girl.

12. The learned counsel appearing for the appellant vehemently contended that it is the case of a love affair and they got married. The accused had physical relationship with the consent of the victim girl. However, there was no dispute with regard to the fact that the victim was a minor at the time of occurrence i.e. on 07.11.2018. It is also brought to the notice of this Court that the accused is a habitual offender. While this Court suspended the sentence of the accused by order dated 04.07.2022 in Crl.M.P.No.7148 of 2022, the accused committed a similar offence as against another minor victim girl. Consequently, the Inspector of Police, All Women Police Station, Erode, registered an FIR in Crime No. 4 of



2026 for the offences under Section 87 of the Bharatiya Nyaya Sanhita, 2023 and 5(1), 6, 11(5), 12 and 15(2) of the Protection of Children from Sexual Offences Act, 2012 and the same is under investigation.

13. A perusal of the FIR reveals that the accused had committed very serious and heinous offence against the minor victim girl. Therefore, the accused was branded as a sexual offender and was detained under Act 14, by the detention order dated 23.02.2026. Therefore, the contention of the learned counsel for the appellant/accused that he fell in love with the victim and got married to her cannot be countenanced. The prosecution has categorically proved the charges and the Trial Court rightly convicted the accused and the same does not warrant any interference of this Court.

14. In view of the above, this Court finds no infirmity or illegality in the Judgment passed in Spl.S.C.No.38 of 2019 dated 25.03.2022 on the file of the Sessions Judge, Mahalir Neethi Mandram (Fast Track Mahila Court), Erode. Accordingly, this Criminal Appeal stands dismissed.

05.03.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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To
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- 1.The Sessions Judge,
Mahalir Neethi Mandram
(Fast Track Mahila Court),
Erode.
2. The Inspector of Police,
Erode Town Police Station,
Erode.
- 3.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.
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