



Crl. A(MD)No.209 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.03.2026

CORAM:

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
AND
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

Crl. A(MD)No.209 of 2023

Muthupandi

: Appellant(s)

Vs.

**The Inspector of Police,
Pudukkottai All Women Police Station,
Pudukkottai District.
Cr.No.17/2021**

: Respondent(s)

PRAYER: Criminal Appeal is filed under Section 374(2) of the Code of Criminal Procedure, to call for records and allow this appeal and set aside the judgment and conviction dated 01.11.2022 passed by the Mahila Court, Pudukkottai District in Special S.C.No.39 of 2021 by allowing this criminal appeal.

For Appellant

: Mr.M.Suresh

For Respondent

**: Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor**



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J U D G M E N T

**(Judgment of the Court was
delivered by N.ANAND VENKATESH, J)**

The sole accused has assailed the judgment passed in Special S.C.No. 39 of 2021, dated 01.11.2022, on the file of the Mahila Court, Pudukottai, wherein the appellant was convicted for offence under Section 6(1) of the POCSO (Amendment) Act, 2019 (hereinafter referred to as “POCSO Act” for brevity) and was sentenced to undergo life imprisonment and to pay the fine of Rs.1,50,000/- and in default to undergo one year rigorous imprisonment.

2. The case of the prosecution is that PW1, who is the mother of the victim girl/PW2, is a coolie and her husband is a driver and they had three children and the victim girl is the eldest daughter. She was born on 12.09.2008. The accused person is known to the family of the victim girl, since he was the uncle (சித்தப்பா). The further case of the prosecution is that on 28.09.2021, PW1 had tooth pain and and she along with her sister and her sister’s husband had gone to the hospital. When she came back, she came to know that the victim girl was not found. When they were



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searching, she was found near a well. When she was inquired, she had stated that the accused person had called her over phone and asked her to come to a poultry farm near R.S.Pathi groove. The victim girl also went to that place since the accused person threatened her that he will die if she does not come. On further inquiry, it came to light that the accused person had committed penetrative sexual assault against the victim.

3. PW1 gave a complaint (Ex.P1) on 29.09.2021 to PW7, who is the Sub-Inspector of Police and based on the same, an FIR (Ex.P9) came to be registered in Crime No.17 of 2021 for offence under Section 5(n) read with Section 6 of the POCSO Act.

4. The investigation was taken up by PW8 and the police officer went to the place of occurrence and in the presence of witnesses, prepared the observation mahazar (Ex.P7) and the rough sketch (Ex.P10). The statements of the witnesses, including that of PW1 and PW2, were recorded under Section 161 of Cr.P.C. The accused person was arrested on the same day at about 18:30 hours and he was produced before the concerned Court and was remanded to judicial custody on the same day.



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5. The victim girl was sent for medical examination to PW6, who on examination of the victim girl recorded the findings in the Accident Register (Ex.P8) as follows:

“O/E.Patient conscious, oriented, afrebrile. No pallor

No pedal edema. BP;110/70mmHg, PR:78/min

SPO2 – 99%

CVS-S1S2(+) RS-NVBS(+)

LMP:24/9/21

Abd: Soft, not tender, no mass palpable

Breast-Soft, no external injuries

L/E: Perineum- No external or internal injuries

P/V.Introitus admits 2 fingers

Hymen not intact

UPT – Negative”

6. PW8 took steps to record the statements of the victim girl and her mother under Section 164 of Cr.P.C and the statements were recorded (Ex.P3 and Ex.P4).



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7. The accused person was produced for medical examination before PW3/Doctor and the certificate was obtained (Ex.P5).

8. The investigation was later taken over by PW9, who on collecting the statements recorded from the witnesses under Section 161 of Cr.P.C. and on collecting all the other materials, laid the final report before the concerned Special Court, which was taken cognizance in Special S.C. No. 39 of 2021.

9. The Special Court framed charges against the accused person for offence under Section 6(1) of the POCSO Act and when questioned, the accused person denied the charges.

10. The prosecution examined PW1 to PW9 and marked Exhibits P1 to P11. The accused examined DW1, however no exhibits were marked on the side of the accused.

11. The trial court, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to the conclusion that the prosecution has proved the foundational facts and



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that the accused person has not rebutted the legal presumption and consequently, the accused person was convicted and sentenced in the manner stated supra. Aggrieved by the same, the present appeal has been filed before this Court.

12. This Court has carefully considered the submissions made on either side and the materials available on record.

13. The main ground that was urged on the side of the appellant is that there was an ongoing dispute between PW1 and the accused person, which resulted in giving a complaint to the police for an incident that took place on 19.09.2021 and hence a false case has been foisted against the accused person.

14. Before dealing with the above ground raised by the learned counsel for the appellant, this Court must keep in mind Sections 29 and 30 of the POCSO Act, which provide for a legal presumption with respect to the commission of offence and also the culpable mental state. If the prosecution is able to prove the foundational facts, the burden of proof shifts on the accused person and unless and until the accused



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discharges the said burden, the legal presumption will operate against the accused person. In such an event, the Court will be left with no other alternative except to convict and punish the accused person under the Act.

15. In the case in hand, PW1, who is the mother of the victim girl/PW2, in her evidence has spoken about how she came to know about the sexual assault committed against her daughter by the accused person on 28.09.2021.

16. The accused person is not a stranger and he is said to be the uncle (சித்தப்பா).

17. The age of the victim girl has been proved by examining PW4, who is the Headmaster of the Government Higher Secondary School and through him the school certificate (Ex.P6) was marked. It is quite clear that the date of birth of the victim girl is 12.09.2008 and on the date of incident, she was hardly 14 years old.



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18. The victim girl was examined as PW2. She has stated that the accused person used to pester her to call him over phone. On 22.09.2021, the accused person called the victim girl and forced her to come to the poultry farm near R.S.Pathi groove. When the victim girl went there, she was subjected to penetrative sexual assault. When the victim girl cried, the accused person is said to have promised her that he will marry her and that she should not inform about this incident to anyone. Again on 28.09.2021, the accused person is said to have once again called the victim girl over phone and threatened her that he will commit suicide if she does not come. Fortunately, the victim girl was traced near a well and on persuasion, she had explained about the entire incident to PW1.

19. It is relevant to take note of the evidence of PW6 and the entries made in the Accident Register (Ex.P8). The doctor, on examining the victim girl, has clearly opined that when she was on duty in the Government Maternal Hospital in Pudukottai on 29.09.2021, the victim girl was produced by her mother/PW1 for medical examination. At that point of time, the victim girl had informed PW6 about the incident. On examining the victim girl, PW6 has recorded that there was no external



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injuries and her vagina admitted two fingers and her hymen was not intact. She further opined that there was possibility of sexual intercourse.

20. The victim is a girl aged about 14 years and she has explained about the incident and the evidence of PW6 only substantiates that the victim girl had been subjected to sexual intercourse.

21. The above evidence clearly lays down the foundational facts and consequently, the legal presumption under Sections 29 and 30 of the POCSO Act comes into play. In order to rebut this presumption, the learned counsel for the appellant submitted that on 19.09.2021, the accused person is said to have driven a two-wheeler in an inebriated state and dashed PW1 and PW2 and a complaint came to be given at Vallathirakottai Police Station and the accused person went absconding. In this incident, a gold chain also went missing. Under such circumstances, it was contended that the alleged incident could not have happened on 22.09.2021 as was alleged by the victim girl.

22. In a case involving sexual offence, the Court cannot disregard the statement recorded from the victim and more particularly when the



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victim is a child. In such cases, it is not necessary for the Court to search for corroboration.

23. We wanted to satisfy ourselves on the demeanor of the victim girl and hence, the CD which marked as Ex.P11 while recording the statement of the victim girl under Section 164 of Cr.P.C. was viewed in the Court. On carefully hearing the statement of the victim girl and watching her demeanor, we found that the victim girl was eliciting about the incident very naturally without any exaggeration. As stated supra, the accused person is not a stranger and he is the uncle (சித்தப்பா) of the victim girl. Therefore, just because there was some earlier issue between the accused and PW1, that by itself cannot result in completely wiping out the evidence of the victim girl on a mere assumption that the case in hand is a false case foisted against the accused person.

24. The accused person had examined DW1 to establish that there was a previous incident which resulted in a police complaint. This evidence by itself does not improve the case of the accused person. Even when the accused person was questioned under Section 313(1)(b) of Cr.P.C., by putting the incriminating circumstances and evidence to him,



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no explanation was forthcoming from the accused person in terms of defense and he has merely denied the same as false. Under such circumstances, the Court can only come to the conclusion that the accused had nothing more to say except to come up with an empty denial.

25. This Court finds that the trial court had the advantage of looking at the demeanor of the victim girl and also to marshal the evidence let in on the side of the prosecution and the trial court came to the conclusion that the prosecution has made out a case and proceeded to convict and sentence the accused person. We do not find any reason to interfere with the judgment passed by the trial court and we accordingly affirm the judgment of the trial court.

26. In the result, this criminal appeal stands dismissed.

[N.A.V., J.] [K.K.R.K., J.]
24.03.2026

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
PKN



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To

1. Mahila Court, Pudukottai District
2. The Inspector of Police,
Pudukkottai All Women Police Station,
Pudukkottai District.
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.



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