



Crl. A(MD)Nos.260 of 2023 and 668 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.04.2026

CORAM:

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

Crl. A(MD)Nos.260 of 2023 and 668 of 2025

Crl.A(MD) No.260 of 2023

Suriyakala

: Appellant(s)

Vs.

The Inspector of Police,
Ganesh Nagar Police Station,
Pudhukottai District.
In Crime No.809/2020

: 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 09.06.2022 passed by the Mahila Court, Pudukottai District in Special S.C.No.42 of 2020 by allowing this criminal appeal.

For Appellant

: Mr.R.Alagumani

For Respondent

: Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



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Crl.A(MD) No.668 of 2025

S.Ganesan

: Appellant(s)

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For Appellant

: Mr.N.Ananda Kumar

For Respondent

: Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

COMMON JUDGMENT

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

These appeals have been filed by A2 and A1, respectively, against the judgement, in Special S.C.No.42 of 2020, dated 09.06.2022, on the file of the Mahila Court, Pudukottai, wherein the appellants were convicted and sentenced as follows:



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The appellant (A2) in Crl.A. (MD) No.260 of 2023.

Offence	Sentence
Sec. 305 of IPC	10 years rigorous imprisonment and fine of Rs.1,00,000/- in default to undergo one year simple imprisonment.
Sec. 17 of the POCSO (Amendment) Act, 2019 (hereinafter referred to as “POCSO Act” for brevity)	Life imprisonment for the remainder of natural life of the appellant and fine of Rs.1,00,000/-, in default to undergo one year simple imprisonment

The appellant (A1) in Crl.A. (MD) No.668 of 2025.

Offence	Sentence
Sec. 305 of IPC	10 years rigorous imprisonment and fine of Rs.1,00,000/- in default to undergo one year simple imprisonment.
Sec. 328 of IPC	10 years rigorous imprisonment and fine of Rs.1,00,000/- in default to undergo one year simple imprisonment.
Sec. 6(i) of the POCSO Act	Life imprisonment for the remainder of natural life of the appellant and fine of Rs.1,00,000/-, in default to undergo one year simple imprisonment

2. The case of the prosecution is that A2, who is the daughter of PW1, was married to one Murugan @ Murugesan and due to some



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misunderstanding, they got separated. There was a girl child born out of the wedlock. It is alleged that A1 developed a relationship with A2 which started as a money transaction and later, they started living as husband and wife. It is alleged that A1 sexually assaulted the victim child by touching, hugging and keeping his hands on her private parts and for nearly three months, he was administering sleeping tablets to the victim girl and he committed penetrative sexual assault on the victim girl on many occasions. When this was informed by the victim girl to A2, she did not question A1 regarding the same and she asked the victim girl to cooperate with A1. On 26.09.2020 at about 9 PM, the victim child was along with A2 in the house of A2 and A1 had purchased pomegranate juice in which it is alleged that he had mixed sleeping pills. Both the victim girl as well as A2 were sedated and he is said to have committed penetrative sexual assault on the victim child. On 27.09.2020 during the morning hours, the victim child noticed the seminal stains on her dress and she complained to A2 and informed that A1 was repeatedly doing this and therefore, she wanted A1 to go out of the house. A2, without supporting the victim girl, asked her to tolerate the same or to go somewhere and die. A1 is also said to have shouted at the victim child saying that she cannot escape from him and she has to sleep with him.



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Thus, A1 and A2 are said to have instigated the victim child to commit suicide and the victim child committed suicide by hanging and died.

3. PW1, who is the defacto complainant and grandfather of the deceased victim child, gave a complaint (Ex.P1) to PW10 at about 13:30 hours on 27.09.2020 based on which an FIR (Ex.P17) came to be registered in Crime No.809 of 2020 under Section 174(3)(iv) of Cr.P.C. This complaint and FIR was sent to the Revenue Divisional Officer of Pudukottai, for the purpose of inquiry.

4. A1 is said to have gone to the office of PW5, who is the Village Administrative Officer, on 27.09.2020 at about 3 PM and voluntarily gave a confession regarding the alleged incident which was typed by PW5 and read over to A1. PW5 took A1 to the Ganesh Nagar Police Station and handed over the confession statement and the requisition (Ex.P5) to the Inspector of Police (PW11).

5. In the meantime, PW11 took up the investigation after the registration of FIR and he went to the apartment of A2 and prepared the observation mahazar (Ex.P3) and the rough sketch (Ex.P18) in the



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presence of witnesses. He also seized MO1 under Athatchi Ex.P4. He also inquired some of the witnesses and recorded their statements.

6. After A1 was produced before PW11 by the Village Administrative Officer (PW5), he was arrested at about 14:15 PM and based on the admissible portion of his confession recovered six strips of Alprazolam tablets (MO2) under Athatchi Ex.P7.

7. A1 was produced before the court and he was remanded to judicial custody. The seized materials were sent to the court under Form 95 marked as Exs.P15 and P20.

8. PW11 thereafter went to Pudukottai Government Hospital mortuary and in the presence of panchayatars and witnesses conducted inquest on the body of the deceased between 8 AM and 10 AM and prepared the inquest report (Ex.P22).

9. The body of the victim girl was sent for postmortem and the postmortem was conducted by PW7.



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10. PW7, on examining the body of the victim girl, prepared the postmortem report which was marked as Ex.P11 and the following observations were made in the postmortem report:

“General Description of body found at the Postmortem:

1. Length-165 cm.
2. Body lying in supine position, wrapped in multicolored hospital sheet, wearing pink chudithar, pink pant, blue chimes, blue white floral designed underwear, white malai around neck.
3. Bilateral pupils dilated and fixed, and cornea hazy, Subconjunctival hemorrhage present in both eyes.
4. Facial congestion seen.
5. Cyanosis seen over all nails of, fingers of hand

External Examination: (Injuries)

1. An incomplete ligature mark in the form of reddish abrasion present obliquely over the front and both sides of the neck, above the level of thyroid cartilage, lies at a point 01 cm below the right mastoid with width 02 cm and runs forwards at a point 4 cm below angle of right side of mandible with width 02 cm runs forwards and crosses midline at a point 05 cm below the chin, 6 cm above suprasternal notch with width of 2 cm and runs backwards and upwards at a point of 05 cm from left angle of mandible with width of 2 cm, runs backwards at



a point 6cm below left mastoid with width 2 cm. Total length of ligature mark is 28 cm. Total neck circumference is 35 cm. On bloodless dissection white glistening layer found below ligature mark and no signs of deep contusion or muscle rupture underlying the above-mentioned injury.

2. A crescentic shaped reddish abrasion of size 0.5 cm present below right side of chin.

Internal Examination:

Scalp: Unremarkable

Skull: Unremarkable

Brain and meninges: Unremarkable

Mouth, Pharynx & Esophagus. Unremarkable

Neck: Hyoid bone intact.

Thorax:

Chest wall, Ribs/Sternum and Cartilage: - Unremarkable

Lungs: - congested, with multiple petechial hemorrhages over surface.

Heart: Unremarkable.

Liver: congested, congested with multiple petechial hemorrhages chemical analysis.

Stomach: contains 50 ml of light brownish fluid. Walls congested stomach with its contents sent for chemical analysis

Spleen: Unremarkable

Intestine: portion of small intestine with its contents send for chemical analysis



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Kidneys: Congested, Half of each kidney send for chemical analysis.

Bladder: Empty, Walls Unremarkable

Spinal column and cord: Unremarkable

External Genitalia:- Labia Majora, minora found to be intact, hymen- found absent, the margins are blunt, old healed hymen scar were noted. Vaginal rugosity found to be intact, external os of cervix found to be intact, external os of cervix found to be intact. Uterine cavity empty, no products of conception noted.

Opinion

1. Cause of death:

The cause of death in this case would be given after receipt of chemical analysis report.”

11. The final opinion was given under Ex.P12 and it stated that the victim girl had died of asphyxia due to hanging.

12. PW11 handed over the dresses of the victim child (MO8 to MO11) through a special report (Ex.P23) which was sent through Form 95 (Ex.P24) to court.

13. PW11 took A1 into police custody on 06.10.2020 and on inquiry in the presence of witnesses, A1 is said to have given a voluntary



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confession and MO6 was seized under Athatchi Ex.P9. This was also sent to the court under Form 95 (Ex.P25). The involvement of A2 came to light and hence A2 was arrested in the presence of witnesses and based on her voluntary confession, a towel (MO7) was seized on 07.10.2020 under Athatchi Ex.P16. This towel is said to have been used by A1 for wiping the sperm from the body of the deceased victim child. It was sent to the court under Form 95 (Ex.P26). The seized material objects were sent for chemical analysis.

14. After the involvement of A2 came to light, the alteration report/Ex.P27 was sent to court by altering the offences under Sections 305, 328 IPC read with 5(l) 5(m) 5(n) r/w Section 6(1) r/w Section 17 of the POCSO Act.

15. PW11 thereafter collected the call details between A1 and A2 which were marked as Exs.P28 and P29. On completion of the recording of statements of the witnesses and on receiving all the relevant reports, the police report was filed before the trial court against both the accused persons.



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16. The trial court framed charges against A1 for offences under Sections 305, 328 IPC, read with 5(l) 5(m) r/w 6(1) of the POCSO Act read with Section 6(1) of the POCSO Act. As against A2, charges were framed for offences under Section 305 IPC, 5(l) 5(m) r/w 6(1) of the POCSO Act r/w 17 of the POCSO Act. The accused persons denied the charges.

17. The prosecution examined PW1 to PW11 and marked Exs.P1 to P35 and relied upon MO1 to MO11.

18. Ex.C1 was also marked as the court document based on the request given by the Inspector of Police for taking a DNA test from the blood sample of A1 and to compare the same with the seminal stains found in MO7.

19. The incriminating circumstances and evidence was put to the accused persons when they were questioned under Section 313(1)(b) of Cr.P.C. and they denied the same as false.



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20. The accused persons did not examine any witnesses nor relied upon any documents.

21. 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 case beyond reasonable doubts and accordingly, convicted and sentenced the accused persons in the manner stated supra. Aggrieved by the same, these criminal appeals have been filed before this Court.

22. This court has carefully considered the submissions made on either side and the materials available on record.

23. The entire case of the prosecution is based on circumstantial evidence and this court has to see the chain of circumstances that has been relied upon by the prosecution in order to substantiate the charges against the accused persons.

24. The circumstantial evidence as projected by the prosecution are:



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- A. Extra-judicial confession made by A1 to PW5;
- B. Motive to the crime as spoken by PW1;
- C. Last seen theory spoken to by PW3;
- D. Medical evidence spoken to by PW7;
- E. The chemical analysis report, the serology report and DNA report marked as Exs. P30, P31 and P35.

25. When it comes to circumstantial evidence, it is now too well settled that every circumstance must be fully proved and the circumstances must form a chain of evidence so complete as to exclude every hypothesis other than the guilt of the accused. Useful reference can be made to the judgement of the Apex Court in ***Baiju Kumar Soni and another v. State of Jharkhand***, reported in (2019) 3 MLJ (Crl) 585 (SC).

26. The learned counsel for the appellants submitted that the very first circumstance relied upon by the prosecution, namely the extra-judicial confession, is highly questionable and cannot be acted upon by the court. It was submitted that the so-called confession that was recorded from A1 was not even produced before the court and what was



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available before the court was only the requisition which was marked as Ex.P5.

27. The learned Additional Public Prosecutor submitted that even though the confession statement was not marked before the court, the confession of A1 as spoken to in the evidence of PW5 can be taken into consideration along with the requisition letter marked as Ex.P5 as the starting point of the chain of circumstances.

28. This court carefully went through the original records as well as the Section 161 statement recorded from PW5. In every place, PW5 has specifically stated that he typed the confession given by A1 and it was handed over to the police. Curiously, this confession statement is not available in any record, including the case diary that was produced before the court by the investigating officer. The so-called confession made by A1 to PW5 on his own, on the surface looks artificial and in the absence of any material to show as to what was recorded as confession from A1, it becomes unsafe for the court to act upon the so-called extra-judicial confession.

29. As such, extra-judicial confession is a weak piece of evidence.



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The mere *ipse dixit* of PW5 about the alleged confession of A1 cannot be acted upon in the absence of the confession that is said to have been recorded by PW5. If the same is not available, the extra-judicial confession that is relied upon by the prosecution will have to fall flat and this court cannot act merely upon Ex.P5 which is only a requisition given by PW5 to the police for taking action against A1. In the considered view of this court, there was a trigger in the investigation only after the alleged extra-judicial confession given to PW5 and this has not been proved by the prosecution.

30. Insofar as the motive behind the crime is concerned, PW1 has deposed that the deceased informed him over phone that she was sexually assaulted by A1 and therefore, PW1 asked A2 to take care of the victim girl. If really the victim girl had complained to PW1, it will be a natural human conduct for a grandfather to call A1 and A2 and to warn them and if required to give a complaint regarding the same. Except the evidence of PW1, there is no other evidence available to effectively substantiate the circumstance of motive by the prosecution.

31. PW3 has been examined by the prosecution to prove the last



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seen theory. She states that A1 was staying in the house of A2 even one day prior to the occurrence. She also speaks about A1 purchasing pomegranate juice in which the sedative was added and thereafter the victim girl was subjected to sexual assault. What was recorded as a statement from PW3 under Section 161 of Cr.P.C. has been subsequently developed by PW3. Therefore, at the best, the evidence of PW3 can be relied upon only to substantiate that A1 and A2 were living together and the victim girl was also living in the same house of A2.

32. In the case in hand, even though the medical evidence shows that the hymen was not intact and that the victim girl could have been subjected to physical intercourse, there must be some material to show the involvement of A1. In other words, unless the prosecution establishes foundational facts to that effect, the presumption under Sections 29 and 30 of the POCSO Act will not come into play.

33. In this case, A1 was arrested initially on 27.09.2020. He was taken into police custody on 07.10.2020. On that day, A2 was also arrested. MO7/Towel is said to have been seized from the house of A2 on 07.10.2020 at about 13:45 hours based on the confession of A2. It must



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be borne in mind that the investigating officer had already conducted search in the house of A2 at least two times and the recovery of MO7 after ten days and more particularly after taking custody of A1 on 07.10.2020, makes it highly doubtful.

34. Ultimately, the prosecution was relying upon Ex.P31, where semen was detected in MO7 and the DNA report marked as Ex.P35 which states that the seminal stain in MO7 matched with the DNA extracted from the blood sample of A1. It will be highly unsafe to rely upon this evidence since this towel (MO7) came out of nowhere on 07.10.2020 when the police custody of A1 was taken.

35. Except the above evidence relied upon by the prosecution, there is no material available to come to the conclusion that the victim girl was subjected to sexual assault by A1 and it was abetted by A2.

36. Insofar as the theory of administering alprazolam/Ex.P33 shows that it was not present in MO5 and the same was also accepted at the time of giving evidence by PW11.



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37. The prosecution has come up with the case that A1 not only administered the juice containing alprazolam to the victim girl but it was also administered to A2. If according to the prosecution, A2 was aware of the sexual assault committed by A1 and she had abetted the crime, this theory projected by the prosecution sounds very unnatural and there was no need for A1 to sedate A2 also since, according to the prosecution, A2 had knowledge about the same and had asked the victim girl to tolerate the acts of A1.

38. The conspectus of the above discussion leads to the only conclusion that the chain in the link of circumstances gets snapped in almost all the circumstances relied upon by the prosecution. In such a scenario, the court cannot proceed to convict and sentence the accused persons based on mere suspicion. It is now too well settled that even a strong suspicion cannot replace proof beyond reasonable doubts as is expected in a criminal case. Since the offence involved in the present case is under the POCSO Act, the reverse burden will start ticking only when the foundational facts have been proved by the prosecution. Unfortunately, the prosecution was not able to prove the foundational



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facts.

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39. Insofar as the offence under Section 305 IPC is concerned, the prosecution must prove that the victim girl was forced to commit suicide by the actions of the accused persons. In the case in hand, the only trigger for the victim girl to commit suicide is the alleged sexual assault committed on her. If the offence under the POCSO Act has not been made out by the prosecution, the very basis for the charge under Section 305 of IPC will also fall flat.

40. In light of the above discussion, this court holds that the prosecution has not substantiated the charges against the accused persons and hence, the accused persons are entitled for acquittal from all the charges. Accordingly, the judgment in Special Case No.42 of 2020 dated 09.06.2022, on the file of the Mahila Court, Pudukottai, is hereby set aside and both the criminal appeals are allowed. The appellants are set at liberty from all charges. A1, who is undergoing the sentence, shall be released from the jail forthwith unless he is required in any other case.

[N.A.V., J.] [K.K.R.K., J.]
06.04.2026

Index : Yes/No
Internet : Yes/No



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Neutral Citation : Yes/No

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To

1. Mahila Court, Pudukottai District
2. The Inspector of Police,
Ganesh Nagar Police Station,
Pudhukottai District.
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH, J.
AND
K.K.RAMAKRISHNAN, J.

PKN

Judgment made in
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