



Crl. A(MD)No.207 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 02.06.2026

CORAM:

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

Crl. A. (MD) No.207 of 2023

Ajith Kumar @ Ajith

: Appellant(s)

Vs.

State Represented by
The Inspector of Police
All Women Police Station,
Pudukottai District.
Crime No.11 of 2022

: Respondent(s)

PRAYER: Criminal Appeal is filed under Section 374(2) of the Code of Criminal Procedure, to call for records in Special S.C.No.48 of 2022 dated 23.01.2023 passed by the learned Sessions Judge, Mahila Court, Pudukottai and to set aside the same and consequently acquit the appellant.

For Appellants
For Respondent

: Mr.R.Anand
: Mr.C.Christopher
Counsel for State of TN
(Crl.Side)



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J U D G M E N T

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

This appeal has been filed against the judgment passed by the Mahila Court, Pudukottai, in Special Sessions Case No. 48 of 2022 dated 23.11.2023, convicting the appellant for offence under Section 6(1) of the POCSO (Amendment) Act 2019 and sentenced to undergo life imprisonment and to pay a fine of Rs.1,50,000/-, in default to undergo one year rigorous imprisonment.

2. The case of the prosecution is that the victim girl, who was aged about 15 years was studying 9th standard in a Government Higher Secondary School. The appellant was residing along with his family nearby and he is a distant relative to the victim girl. In the month of February 2021, the appellant, knowing the fact that the victim girl was alone at her house, entered the house in an inebriated state and forcibly committed penetrative sexual assault on the victim girl. He once again indulged in similar acts during the months of July and August 2022. The victim girl suffered stomach ache and informed about the same to her



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mother and when the victim girl was taken to the private nursing home, the Doctor who examined the victim girl found that the victim girl was pregnant. It is only then the truth came out and PW3, who is the Doctor who examined the victim girl, gave information to the District Child Protection Unit. In the meantime, the victim girl delivered a female child on 18.04.2022 at about 3.40 a.m. The discharge summary was issued by PW3 which was marked as Ex.P5.

3. The victim girl and the child were handed over to PW1 and PW1 gave a complaint (Ex.P1) to PW7 on 21.04.2022 at 19.00 hours, based on which an FIR came to be registered in Crime No. 11 of 2022 for offences under Section 5(l), 5(j)(ii), read with Section 6(1) of the POCSO (Amendment) Act, 2019. PW7 prepared the observation mahazar (Ex.P7) and the rough sketch (Ex.P10) and examined the statement of the victim girl and other witnesses. The appellant was arrested on 22.04.2022 at about 10.00 a.m. and was produced before the concerned court and he was remanded to judicial custody.

4. The victim girl was subjected to medical examination on 24.05.2022 and the victim girl was produced before the concerned Court



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and her statement under Section 164 of Cr.P.C. was recorded(Ex.P3).

Thereafter, PW4, who is the Headmaster of the Government Higher Secondary School, gave the certificate (Ex.P6) by mentioning the date of birth of the victim girl as 08.10.2007. On 12.07.2022, PW7 took steps to collect the samples from the victim girl, the child and the accused person in order to conduct DNA test and made a requisition to the concerned Court to send the samples for DNA analysis.

5. PW7 after recording the statements of all the witnesses under Section 161(3) of Cr.P.C. and after collecting the relevant report (Ex.P12) filed the police report before the Special Court.

6. The trial court framed charges for offences under Sections 5(l), 5(j)(ii), read with Section 6(1) of the POCSO (Amendment) Act, 2019. When the accused was questioned on the charges, he denied the same,

7. The prosecution examined PW 1 to PW7 and marked Exs.P1 to P12.

8. The incriminating circumstances and evidence was put to the



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accused person when he was questioned under Section 313(1)(b) of Cr.P.C. and he denied the same as false.

9. The accused person did not examine any witnesses nor mark any documents.

10. 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 laid the foundational facts and the legal presumption has not been rebutted by the accused person and accordingly, convicted and sentenced the accused person in the manner stated supra. Aggrieved by the same, the present appeal has been filed before this Court.

11. The learned counsel for the appellant submitted that there was an unexplained delay in giving the complaint and considering the seriousness of the charges, it is quite unbelievable that no complaint was given immediately and for the first time such complaint was given by PW1 based on the information received from the hospital. The next ground that was urged by the learned counsel for the appellant is that



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there was a relationship between the appellant and the victim girl and she was an accomplice in the consensual relationship between the parties and a consenting party. It is further submitted that the victim girl had some other relationship and the same can be deciphered from the answers given by her in the cross-examination. The last ground that was urged is that the DNA report cannot be relied upon since there was absolutely no material to show as to when the sample was taken. Apart from that, PW7 states that the sample was taken on 17.07.2022 and whereas, DNA report (Ex.P12) shows that the sample has been received even before that, on 15.07.2022. Proper procedure has not been followed in collecting the sample and getting the DNA report and therefore, the report cannot be relied upon even for the purpose of corroboration. To substantiate this submission, the learned counsel relied upon the judgment of the Apex Court in ***Kattavellai @ Devakar v. State of Tamil Nadu***, in Criminal Appeal No. 1672 of 2019, dated 15.07.2025 and placed specific reliance upon the guidelines given by the Apex Court at paragraph No.44 of the judgment.

12. Per contra, the learned counsel for the State (Crl. side) submitted that the statement recorded from the victim girl is cogent and



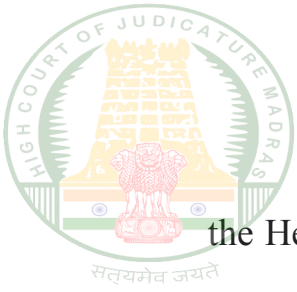
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there is absolutely no reason to disbelieve the evidence of PW2. The evidence of PW2 has not been discredited in cross-examination.

13. Insofar as the delay is concerned, in a case of this nature, the victim girl and the family are normally hesitant to give any complaint and therefore, the delay in lodging the complaint by itself cannot vitiate the prosecution. Insofar as the DNA report is concerned, PW7 was never cross-examined regarding the samples taken and the evidence of PW7 stands unrebutted. The DNA report ultimately is a corroborative piece of evidence which only substantiates/supports the version given by the victim girl and the child born to the victim girl clearly points out to the fact that it is the accused person who is the father of the child. Therefore, it is contended that there is absolutely no ground to interfere with the judgment of the trial court.

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

15. The victim girl in this case was aged about 15 years and the same is evident from the *bona fide* certificate marked as Ex.P6 through



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the Headmaster of the Government School examined as PW4. In view of the same, even assuming that the appellant is known to the victim girl, that by itself does not give rise to the presumption that the victim girl was an accomplice to the illegal act performed by the appellant. In other words, consent or consensus becomes irrelevant where the victim girl is a child.

16. On carefully going through the evidence of PW2, it is seen that the victim girl has cogently explained the manner in which she was subjected to penetrative sexual assault by the accused person and it is further corroborated by the statement under Section 164 of Cr.P.C. recorded from the victim girl and marked as Ex.P3. The evidence of PW2 has not been discredited in cross-examination and even the suggestion that was put to the victim girl as if she had relationship with someone else has been stoutly denied. Therefore, there is absolutely no reason to disbelieve the evidence of PW2 and it is now too well settled that where the evidence of the victim girl is reliable, the court should not be looking for corroboration and the conviction can be sustained merely on the evidence of the victim girl.



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17. Insofar as the delay in lodging the complaint is concerned, it is common knowledge that the victim girls and their families, more particularly in villages, are very hesitant to come forward and give a complaint, considering the fact that the same may result in stigmatizing the girl and her family. Therefore, in a case of this nature, delay in lodging the complaint can never vitiate the prosecution and delay cannot be applied like it is done in traditional criminal offences.

18. This Court will now deal with the DNA report. Ex.P12 shows that it is the accused person who is the father of the female child born to the victim girl. The ground that has been urged on the side of the appellant is that there is absolutely no material to show as to when the sample was taken and what procedure was followed, while handing over the sample for DNA test. The judgment of the Apex Court in ***Kattavellai's case*** has also been relied upon. There is absolutely no quarrel on the guidelines issued by the Apex Court in the said judgment in respect of the collection of DNA samples, storage and getting the report. These guidelines have been given to ensure that there is proper chain of custody maintained at each stage and the evidence carries sanctity to act upon.



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19. Insofar as the collection of the samples are concerned, PW7/Investigation Officer has categorically stated that the samples were taken from the victim girl, child and the accused person on 17.07.2022 and thereafter it was sent for analysis. The DNA report records that the samples were received for DNA analysis on 15.07.2022. The date mentioned by PW7 as 17.07.2022 may be due to oversight and this discrepancy in the date by itself will not discredit the DNA report which otherwise shows that the analysis has been done properly after collecting the samples. Not a single question has been put to PW7 regarding the samples collected and the DNA report. Therefore, what has been stated by PW7 in the chief examination stands unrebutted. In view of the same, Ex.P12/DNA report can be certainly acted upon and it clearly corroborates the evidence of PW2.

20. In the light of the above discussion, all the grounds that were raised by the learned counsel for the appellant stands rejected and the conviction of the accused person for offence under Section 6(1) of the POCSO (Amendment) Act 2019, is confirmed.



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21. This Court will now go into the issue of sentence imposed by the trial court. The trial court has imposed the sentence of life imprisonment and it is to be seen whether such a severe punishment is warranted in the facts of the present case.

22. The appellant was aged about 21 years at the time of the incident and he is a distant relative of the victim girl. Considering the age of the appellant and the background of the appellant, the same can be taken as mitigating factors and this Court is inclined to modify the sentence imposed by the trial court. After the POCSO Amendment Act 2019, the minimum sentence that has to be imposed by the Court for aggravated penetrative sexual assault is not less than 20 years rigorous imprisonment. Therefore, there is no discretion available for the Court to impose any punishment less than this period.

23. In the light of the above, the sentence of life imprisonment imposed by the trial court is modified and the appellant is sentenced to undergo rigorous imprisonment for 20 years and to pay a fine of Rs. 1,50,000/- and in default to undergo one year rigorous imprisonment.



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24. In the result, this criminal appeal is partly allowed to the extent indicated supra.

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[N.A.V., J.] [K.K.R.K., J.]
02.06.2026

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

To

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



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AND
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