



Crl. A(MD)No.272 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 08.06.2026

CORAM:

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
AND
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

Crl. A. (MD) No.272 of 2022

Masanamuthu

: Appellant(s)

Vs.

The Inspector of Police,
All Women Police Station,
Rameshwaram,
Crime.No.9/2019.

: Respondent(s)

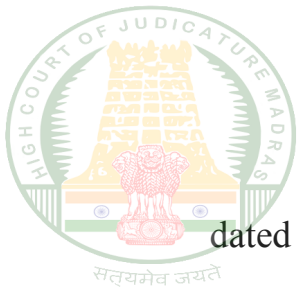
PRAYER: Criminal Appeal is filed under Section 374(2) of the Code of Criminal Procedure, to call for records in Special S.C.No.6 of 2020 dated 15.07.2021 passed by the Fast Track Mahila Court, Ramanathapuram, and to set aside the same and consequently acquit the appellant.

For Appellants	: Mr.R. Venkatesan
For Respondent	: Mr.D.Venkatesh
	Counsel for State of TN (Crl.Side)

J U D G M E N T

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

The sole accused, aggrieved by the judgment of the Fast Track Mahila Court, Ramanathapuram, made in Special S.C.No.6 of 2020,



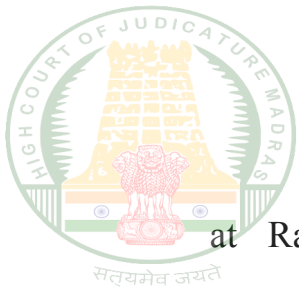
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dated 15.07.2021, has filed the present appeal wherein, the accused person was convicted and sentenced in the following manner:

Offence	Sentence
Sec. 366 of IPC	10 years rigorous imprisonment and fine of Rs.1,000/- in default to undergo one year simple imprisonment.
Sec. 342 of IPC	One year rigorous imprisonment
Sec. 9(1) read with Section 10 of the POCSO (Amendment) Act, 2019 (hereinafter referred to as "POCSO Act" for brevity)	7 years rigorous imprisonment and fine of Rs.1,000/- in default to undergo one year simple imprisonment.
Sec. 3 r/w 4 (2) of POCSO Act	Life imprisonment and fine of Rs. 1,000/-, in default to undergo one year simple imprisonment

The above sentences were ordered to run concurrently.

2. The case of the prosecution is that the father of the victim girl was a small-time fisherman and his wife was facing serious health issues. In order to have a successful business and in order to cure the ailments suffered by the wife, they approached the accused person, who claims to be a godman. He had an eye on the victim girl, who was hardly 16 years and under the guise of providing a solution, at least on 10 occasions, he made the victim girl come to Rameswaram and misbehaved with her and on two occasions, he committed penetrative sexual assault on the girl. Once again, on 15.12.2019, the victim girl was forced to stay in a lodge



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at Rameswaram and the accused person once again committed penetrative sexual assault on the girl. The victim girl somehow managed to wriggle out of the accused person and went to a nearby police station and gave a complaint (Exhibit P1) to PW10, based on which, an FIR (Exhibit P7) was registered in Crime No. 9 of 2019 for offences under Sections 366 of IPC and Section 5(l) read with Sections 6 and 8 of the POCSO Act.

3. PW10 took up the investigation and went to the scene of crime on 16.12.2019 at about 19:30 hours and prepared the observation mahazar (Exhibit P5) and rough sketch (Exhibit P8). The Investigation Officer further recorded the statements of the parents and others under Section 161(3) of Cr.P.C. The accused person was arrested on 17.12.2019 at 4.00 AM at Rameswaram Bus Stand in the presence of witnesses and he was produced before the court and remanded to judicial custody.

4. The victim girl was sent for medical examination and the medical examination was conducted by PW4, who gave the medical certificate (Exhibit P4), in which the following observations were made:



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“L/E - hymen not intact. P/V hymen not intact.

WEB COPY No bleeding seen.

பாதிக்கப்பட்ட சிறுமியின் உடம்பில் காயங்கள் ஏதும் இல்லை.
பாதிக்கப்பட்ட சிறுமியின் உடம்பில் விந்துகள் ரோமங்கள்
காணப்படவில்லை. பாதிக்கப்பட்ட சிறுமியின் smear, blood
சேர்க்கப்பட்டுள்ளது.”

5. The victim girl was produced before the concerned court and her statement was recorded under Section 164 of Cr.P.C. (Exhibit P2).

6. The investigation officer after recording the statements of all the witnesses under Section 161(3) of Cr.P.C. and after collecting the relevant reports (Exhibits P9 to P11), filed an alteration report (Exhibit P12) by altering the offence to Sections 366 and 342 of IPC and Section 5(l) read with Section 6, Section 9(1) read with Section 10 of the POCSO Act.

7. The police report was filed before the Special Court and the Special Court, after furnishing the copies to the accused person under Section 207 of Cr.P.C., framed charges against the accused person for offences under Sections 366 and 342 of IPC and Section 5(l) read with



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Section 6, Section 9(1) read with Section 10 of the POCSO Act. When the accused was questioned on the charges, he denied the same.

8. The prosecution examined PWs 1 to 10 and marked Exhibits P1 to P12.

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

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

11. The trial court, on considering the facts and circumstances of the case and on appreciation of evidence, came to the conclusion that the prosecution has established the foundational facts and the accused person has failed to rebut the legal presumption and accordingly, he was convicted and sentenced in the manner stated supra. Aggrieved by the same, the present appeal has been filed before this Court.



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12. The learned counsel for the appellant submitted that the entire investigation is flawed and there are too many gaps in the investigation. It is submitted that there was delay in lodging the complaint and there is no explanation as to why it took such a long time for lodging the complaint against the accused person when such a serious offence has been committed. It is further submitted that there is contradiction between the statement of the victim girl given under Section 164 of Cr.P.C. and what was informed to the court. It is further contended that merely based on the report given by the radiologist, the age of the victim girl was determined without any clinching proof. Ultimately, even in the report of the FSL, there was nothing to implicate the accused person. It is contended that a false case has been foisted against the accused person and he is suffering incarceration from the year 2019 onwards.

13. Per contra, the learned counsel for the State (Crl. side) submitted that the evidence of the victim girl was not discredited and the same is supported by the evidence of the doctor who issued the medical certificate. The conduct of the accused person has been further spoken by the parents who were examined as PW2 and PW3. The stay of the



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accused person in the lodge has been spoken to by PW5 and the relevant document was marked as Exhibit P4. It is further contended that the evidence was properly appreciated by the trial court and there is no ground to interfere with the conviction and sentence imposed against the accused person.

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

15. PW1 is the victim girl who speaks about the entire incident. She states that she had studied up to 8th standard and was working in a small shop. Her mother used to fall sick very often and at that point of time, the accused person informed that he will be able to cure the ailment suffered by the mother. She describes the accused person as a Poojari. On nearly ten occasions, the victim girl's father had sent the victim girl to Rameswaram in order to bring the holy water which will cure the ailment of the mother. She describes the manner in which she was physically abused each time. Ultimately, on 15.12.2019, she was taken to a lodge by the accused person and penetrative sexual assault was committed. The statement of the victim girl recorded under Section 164 of Cr.P.C.



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(Exhibit P2) is in line with the evidence tendered before the court and therefore, Exhibit P2 can be taken as a corroborative piece of evidence for the evidence tendered by the victim girl in the dock. The evidence of the victim girl has not been discredited in the cross-examination.

16. PW2 is the mother of the victim girl and she also speaks about the ailment suffered by her and the accused person coming into the scene and how he managed to make the victim girl come to Rameswaram and committed sexual assault.

17. PW3 is the father of the victim girl and he also clearly explains about the entire incident.

18. PW4 is the doctor who examined the victim girl. The report of the doctor shows that the hymen was not intact and there was every possibility that the victim girl had been raped.

19. PW5 was examined on the side of the prosecution to prove that the accused person had stayed in the lodge at Rameswaram. Exhibit P4 was marked which shows the entries made in the register and it carries



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the name of the accused person along with the signature.

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20. In a case of this nature, the delay in giving the complaint or certain flaws that are attempted to be put against the investigation officer will not automatically vitiate the proceedings. It is enough for the court to act upon the evidence of the victim girl if it is reliable and the court need not search for corroboration. There is no reason for the victim girl or her parents to make a false allegation against the accused person. In any case, the accused person has not stated that a false complaint has been given against him when he was questioned under Section 313(1)(b) of Cr.P.C.

21. The evidence of the victim girl is sufficiently corroborated by the 164 statement recorded from her, apart from the evidence of the parents. The medical evidence also supports the version of the prosecution. Insofar as the age of the victim girl is concerned, it has been spoken to by PW4 who issued the report (Exhibit P3) and determined the age of the victim girl to be between 15 to 17 years. The radiological report sufficiently establishes the age of the victim girl.



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22. In view of the above, the prosecution had clearly laid the foundational facts and the legal presumption kicks in under Sections 29 and 30 of the POCSO Act. The accused person has miserably failed to discharge the reverse burden. Hence, the trial court was perfectly right in convicting and sentencing the accused person.

23. The learned counsel for the appellant submitted that initially the accused person faced charge for offence under Section 5(1) read with Section 6 of the POCSO Act, but however ultimately he was convicted and sentenced for offence under Section 3 read with Section 4(2) of the POCSO Act. It is further contended that such alteration of charges cannot be made at the fag end without giving any opportunity to the accused person.

24. The above contention raised on the side of the accused person is unsustainable. To establish a charge under Section 5(1) of the POCSO Act, it must be proved that the child has been subjected to sexual assault more than once and repeatedly. Since the trial court did not find clinching evidence to establish this charge, it rightly relied upon Section 3 which



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deals with penetrative sexual assault, even if it is committed once and which is punishable under Section 4 of the POCSO Act. The fact remains that, the punishment is the same as provided under Section 6 of the POCSO Act. The trial court has not altered the minor charge into a major charge and there is virtually no substantive alteration and instead of the charge for multiple penetrative sexual assault, the trial court thought it fit to confine it to a single incident which was clearly proved by the prosecution. In any case, the punishment is the same whether under Section 4 or under Section 6 of the POCSO Act. It is now confined to a single penetrative sexual assault committed on 15.12.2019, for which there was sufficient evidence.

25. In the light of the above discussion, this Court does not find any ground to interfere with the judgment passed by the trial court and the same in accordance with law and is perfectly supported by reasons. Accordingly, this criminal appeal stands dismissed.

[N.A.V., J.] [S.S.Y., J.]
08.06.2026

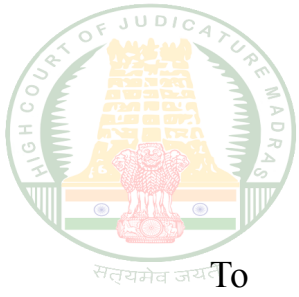
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To

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- 1.The Fast Track Mahila Court, Ramanathapuram.
- 2.The Inspector of Police,
All Women Police Station,
Rameshwaram.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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AND
S.SRIMATHY, J.

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