



Crl.A(MD) Nos.313 of 2023 and
354 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	:	18.03.2026
Pronounced on	:	08.04.2026

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
and
THE HONOURABLE MR.JUSTICE P.DHANABAL

Crl.A.(MD) No.313 of 2023 and 354 of 2026

Crl.A.(MD) No.313 of 2023

Kamaraj Perumal

... Appellant / A2

-VS-

The Inspector of Police
All Women Police Station,
Virudhunagar District
Crime No.5 of 2020

...Respondent

Criminal appeal filed under Section 374(2) of Cr.P.C., to call for the records of the case in Spl.S.C.No.76 of 2020 on the file of the learned Special Court (POCO Act Cases) Virudhunagar District at Srivilliputhur dated 24.11.2022 and set aside the conviction and sentence and acquit the appellant/ A2.

For Appellant : Mr.G.Karuppasamy Pandian



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For Respondent : Mr.A.Thiruvadikumar
Additional Public Prosecutor

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Mahendran

... Appellant / A1

-VS-

The Inspector of Police
All Women Police Station,
Virudhunagar District
Crime No.5 of 2020

...Respondent

Criminal appeal filed under Section 374(2) of Cr.P.C., to call for the records of the case in Spl.S.C.No.76 of 2020 on the file of the learned Special Court (POCO Act Cases) Virudhunagar District at Srivilliputhur dated 24.11.2022 and set aside the conviction and sentence and acquit the appellant/ A1.

For Appellant : Mr.K.M.Karunakaran
For Respondent : Mr.A.Thiruvadikumar
Additional Public Prosecutor



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COMMON JUDGMENT

P.DHANABAL, J.,

Challenging the conviction and sentence rendered by the learned Special Court (POCO Act Cases) Virudhunagar District at Srivilliputhur in Spl.S.C.No.76 of 2020 dated 24.11.2022 the present criminal appeal has been filed by the appellants.

2. Originally there are two accused in this case and the first accused has faced charge for the offences under Sections 5(m)(n)(l)r/w.6 of POCSO Act and Sections 468,471,420 of IPC and the second accused has been charged for the offence under Section 5(m)(n)(l)r/w.6 of POCSO Act and Section 506(i) of IPC.

3. For the sake of convenience and brevity, the appellant in Crl.A(MD) No. 313 of 2023 hereinafter referred to as second accused and the appellant in Crl.A.(MD) No.354 of 2026 hereinafter referred to as first accused.



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4. The trial Court convicted the first accused for the offences under

Section 5(l), 5(n) r/w.6 of POCSO Act and sentenced to undergo life imprisonment and to pay a fine of Rs.1,00,000/- i/d under go two years simple imprisonment. The trial Court has also convicted the second accused for the offence under Section 5(l) r/w.5(n) r/w. 6 of POCSO Act to undergo life imprisonment and to pay a fine of Rs.1,00,000/- i/d under go two years simple imprisonment and further convicted the second accused for the offence under Section 506(i) of IPC and sentenced to undergo two year rigorous imprisonment and to pay a fine of Rs.10,000/- i/d to undergo one year simple imprisonment.

4.1. The trial Court acquitted the first appellant for the offence under Section 468,471,420 of IPC and Section 5(m) r/w. 6 of POCSO Act and acquitted the second accused for the offence under Section 5(m) r/w. 6 of POCSO Act

5. Crl.A(MD) No. 354 of 2026 has been preferred by the first accused



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and the Crl.A(MD) No.313 of 2026 has been preferred by the second

accused. Since both the cases are arising out the same judgment both the appeals have been taken up for hearing together and passed common judgment.

6. The case of the prosecution is that the first accused is the adopted father of the victim girl and the second accused is the cousin of the victim girl. The sister of the first accused's wife had 12 children, thereby the victim who was born to the sister of the first accused's wife was adopted by the first accused and his wife who is the defacto complainant in this case and the victim was residing in the house of the first accused and his wife. While so, on 27.08.2020 due to illness the victim was taken to Government Hospital, Virudhunagar and she was admitted in the hospital at that time the doctor who treated the victim girl informed to the adopted mother of the victim that the victim was subjected for sexual assault, thereafter on 01.09.2020 when the victim was normal at about 5.00 pm., the defacto complainant/P.W.1 and Pethanatchi Eswari enquired the victim girl, at that time she stated that in the year 2018 when she was studying

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IV th standard her adopted father/first accused committed penetrative

sexual assault on 29.09.2018 when the mother of the victim went to Srivilliputhur temple and thereafter also he committed penetrative sexual assault. Further in the year 2018 the first appellant gave false information that the victim was born to him and obtained birth certificate and based on the said forged birth certificate admitted the victim in the school as his daughter , thereby the first appellant has been charged for the offence under Sections 5(m)(n)(l)r/w.6 of POCSO Act and Sections 468,471,420 of IPC. Further the first appellant was admitted in the Velammal hospital on 10.05.2019 at that time the mother of the victim dropped the victim girl to the house of the second accused who is the cousin and at that time the second accused committed penetrative sexual assault on the victim when she was aged about 11 years and also he threatened the victim girl not to reveal the same to any one otherwise he would kill her, therefore the second accused has been charged for the offence under Section 5(m)(n)(l)r/w.6 of POCSO Act and Section 506(i) of IPC.

6.1. P.W.1 who is the adopted mother of the victim girl, after enquiry



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with the victim girl she came to know that the victim was subjected for

penetrative sexual assault and thereby she lodged complaint /Ex.P.1 before P.W.14 and based on the said complaint P.W.14 registered First Information Report/Ex19 in Crime No. 5 of 2020 for the offences under Sections 5(m),5(n)5(l) r/w.6 of POCSO Act and 506(i) of IPC. Thereafter P.W. 16 has taken the case for investigation and she went to the place of occurrence and prepared observation mahazhars/Ex.P.6 and P.7 and rough sketch/Ex.P.22 and 23. Thereafter she had taken steps to record the statement of the victim under Section 164 of Cr.P.C., and also subjected the victim girl for medical examination and thereafter she examined the doctor who gave treatment to the victim and on 17.09.2020 he examined the doctor who gave counselling to the victim and thereafter she also taken steps to record the statement of the defacto complainant and examined the Child Welfare Committee Chair Person and on 12.10.2020 she obtained age certificate from the school where the victim was studying and examined the Head Master of the school. After examining the witnesses and recording their statement she filed final report as against the accused persons.



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6.2. After perusing the case records and hearing both sides the trial Court has framed charges against the first accused for the offences under Sections 5(m)(n)(l)r/w.6 of POCSO Act and Sections 468,471,420 of IPC and the second accused has been charged for the offence under Section 5(m)(n)(l)r/w.6 of POCSO Act and Section 506(i) of IPC.. The above charges were read over and explained to the accused persons. The accused denied the charges and claimed to be tried.

6.3. The prosecution examined P.W. 1 to P.W.18 and marked exhibits Ex.P.1 to P.24 . After completion of prosecution witnesses the accused were examined under Section 313 (1)(b) of Cr.P.C., with regard to the incriminating circumstances appearing against them and they denied the same as false. On the side of the accused no one were examined and no documents were marked.

6.4. After analyzing the evidence and upon hearing both sides, the trial Court has convicted the first accused for the offences Section 5(l) r/w.



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6 of POCSO Act and sentenced to undergo life imprisonment and to pay a fine of Rs.1,00,000/- i/d under go two years simple imprisonment. Further the second appellant was convicted for the offence under Section 5(l) r/w. 5(n) r/w. F of POCSO Act and sentenced to undergo life imprisonment and to pay a fine of Rs.1,00,000/- i/d under go two years simple imprisonment and further convicted the second accused for the offence under Section 506(i) of IPC and sentenced to under to two year rigorous imprisonment and to pay a fine of Rs.10,000/- i/d to undergo one year simple imprisonment. Further the trial Court acquitted the first accused for the offence under Section 468, 474, 420 of IPC and Section 5(m) r/w. 6 of POCSO Act and acquitted the second accused for the offence under Section 5(m) r/w. 6 of POCSO Act. Aggrieved by the said judgment of conviction the present appeals have been filed by the appellants.

7. The learned counsel appearing for the appellant in Crl.A(MD) No. 354 of 2026 would submit that the defacto complainant is none other than the wife of the first accused and they had no children and thereby adopted the victim girl born to the sister of the first accused wife and for the past 15



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years he brought the said victim as his own daughter and due to family

dispute between the accused and his wife who is the defacto complainant herein, a false complaint has been lodged by the defacto complainant and the evidence of the victim/P.W3 is tutored one based on the instructions given by the defacto complainant. The victim has witnessed against the accused and the accused has not committed any offence as alleged by the prosecution. The evidence of prosecution witnesses are filled with doubts According to the prosecution case when the victim was studying IV th standard the occurrence was happened but the victim has not stated anything about the occurrence immediately after the alleged occurrence and complaint has been lodged in the year September 2020 practically it is not possible to commit the said offence as alleged by the prosecution when the child was aged only 9 year, thereby the evidences of prosecution are not cogent and unbelievable. The prosecution failed to prove the foundational facts for the commission of offence and there are so may latches in the investigation and the prosecution failed to prove the initial burden in respect of commission of offence and therefore without any evidence the trial Court erroneously convicted the first accused and

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thereby the appellant is entitled for acquittal.

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8. The learned counsel appearing for the appellant in Crl.A(MD) No. 313 of 2023 would submit that a false complaint has been lodged as against the accused who is an innocent. There is no specific date mentioned by the prosecution. The accused is the cousin brother of the victim and he has not committed any offence as alleged by the prosecution. Witnesses have not spoken the real facts and the evidence of prosecution witness are contradictory to each other. Further the evidence of P.W.1 and 2 are contradictory to each other and as per prosecution case till attaining puberty the first accused committed penetrative sexual assault on the victim girl and the victim girl attained puberty on 30.05.2020., therefore the occurrence could not have happened as alleged by the prosecution. The victim girl has not spoken anything about the alleged occurrence till the examination by the doctor. The doctor has not recorded anything about the words spoken by the victim. The trial Court by relying the evidence of P.W.1 and P.W. 2 without appreciating the evidence in a proper perspective erroneously convicted the accused, thereby the accused



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entitled for acquittal by allowing this appeal.

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9. The learned Additional Public Prosecutor would submit that the appellant in Crl.A(MD) No.354 of 2026 is none other than the adopted father of the victim and the appellant in Crl.A(MD) No.313 of 2023 is none other than the cousin brother of the victim girl. Both the appellants have committed aggravated form of penetrative sexual assault on the victim who was aged about 11 years. The first accused taking advantage of the absence of his wife/defacto complainant in the year 2018 when she went to temple had taken the victim to the bed room and committed penetrative sexual assault and thereafter he repeatedly committed the same offence. The second appellant in the year 2019 while the first accused was in the Velammal hospital and while the defacto complainant was staying in the hospital had left the victim in the house of the second accused, at that time when the family members of the second accused were not in the house the second accused has also committed penetrative sexual assault on the victim and again he repeatedly committed the same offence, thereby the victim was unwell and while she was brought to Government Hospital at

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Virudhunagar on 27.08.2020 the doctor who examined the victim has told

the defacto complainant that the victim was subjected for sexual assault and thereby the defacto complainant enquired the victim, at that time the victim revealed that the first and the second accused on different occasions had committed aggravated penetrative sexual assault on the victim thereby she lodged complaint and based on the said complaint First Information Report has been registered and thereafter the investigation officer investigated the case and filed final report.

9.1. Based on the final report the trial Court framed charges and the prosecution has examined P.W. 1 to P.W.18 and marked exhibits Ex.P.1 to P.24 . In this case P.W.1 is the defacto complainant who is the adopted mother of the victim. P.W.2 is the relative of the victim girl and she was also present at the time of enquiring the victim girl. P.W.3/victim has categorically deposed about the manner of occurrence by both the accused. The evidence of P.W.3 has been corroborated by the medical evidences through P.W.11 to P.W. 13. P.W.11 has deposed about the medical examination done by her. PW.12 has deposed about the



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psychology of the child and she stated that the victim was affected by behavioral disorder and he categorically deposed that the victim was subjected to sexual assault. P.W.13 has deposed about the treatment given to the victim. P.W.14 has deposed about the registration of the First Information Report and P.W.16 and P.W.18 have deposed about the investigation and the final report filed by them, thereby the prosecution has proved the charges levelled against the accused persons and the accused failed to rebut the presumption under Sections 29 and 30 of POCSO Act and the trial Court after analyzing the evidence convicted the accused persons and there is no infirmity or illegality in the judgment passed by the trial Court and therefore the appeals are liable to be dismissed.

10. This Court heard both sides and perused the materials available on record.

11. The point for determination in this appeal is whether the prosecution has proved the charges levelled as against the first accused for the offences under Sections 5(l) r/w. 6 of POCSO Act and the second



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accused for the offence under Section 5(l), 5(n) r/w. 6 of POCSO Act?

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12. In this case the first accused has been charged for the offence under Sections 5(m)(n)(l)r/w.6 of POCSO Act and Sections 468,471,420 of IPC and the second accused has been charged for the offence under Section 5(m)(n)(l)r/w.6 of POCSO Act and Section 506(i) of IPC. In order to prove the case the prosecution has examined P.W. 1 to P.W.18 and marked exhibits Ex.P.1 to P.24. P.W.3 is the victim girl. P.W.1 is the adopted mother of the victim girl. P.W. 1 and P.W.2 have enquired the victim girl and the victim revealed the occurrence to P.W.1 and P.W.2. P.W.11 has deposed about the medical examination done by her. PW.12 has deposed about the psychology of the child and she stated that the victim was affected by behavioral disorder and he categorically deposed that the victim was subjected to sexual assault. P.W.13 has deposed about the treatment given to the victim. P.W.14 has deposed about the registration of the First Information Report and P.W.16 and P.W.18 has deposed about the investigation and the final report filed by them.



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13. P.W.1 is the defacto complainant who is none other than the wife

of the first accused and cousin sister of the second accused and she deposed about the illness of the victim. Due to illness the victim was taken to Government Hospital, Virudhuangar and doctor had given treatment on the victim. The enquiry reveals the sexual assault by the accused on the victim and thereby P.W.1 and P.W. 2 who is the relative of the P.W.1 enquired the victim and at that time the victim narrated about the occurrence and thereby P.W.1 has lodged complaint and the evidence of P.W.1 is corroborated by the complaint /Ex.P.1. PW.2 who also enquired the victim along with P.W.1 has also deposed about the enquiry made by her to the victim and at that time the victim narrated about the occurrence and there is no motive established by the accused persons for false implication of the accused by the witnesses. The evidences of P.W.1 and P.W.2 have not been impeached through cross examination and there are no ground to discredit the evidence of P.W.1 and P.W.2.

14. More over the crucial witness P.W.3 who is the victim in this case has categorically deposed about the acts of the accused persons.



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According to the evidence of victim/P.W.3 the first accused committed

penetrative sexual assault repeatedly at her house during the absence of her mother and the second accused also committed penetrative sexual assault towards her at his house several times. The P.W.3 victim in her evidence stated that on 01.09.2020 when she was in the hospital at Virudunagar Government Hospital her mother and Pethanatchi Eswari asked her that any body misbehaved with her, at the time she stated to them that when she was studying 4th standard, her mother went to Srivilliputhur Thiruvannamalai Temple during quarterly exam holidays, at the time her father had taken her in to bed room and pressed her breast, when she stated about her pain the First accused stated that he is her father. Thereafter in the bedroom he had sexual intercourse after removing her dress and further stated that not to reveal the same to anybody and he would purchase what ever she want. While so after some time the First accused was admitted in the Government Hospital Viruthunagar due to his illness at that time she was in the house of second accused, at that time her family members had went outside and the second accused taken her to the bed room and had sexual intercourse with her, further during the



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absence of her maternal aunt, the second accused had sexual intercourse with her several times and also he threatened not to reveal the same to anybody otherwise he would kill her. The doctor who treated the victim has also deposed about the injuries sustained by the victim and she was subjected for penetrative sexual assault. The doctor/P.W.11 stated that she examined the victim and gave Ex.P16 and P17 as per her evidence there was frequent sexual intercourse and hymen not intact. The Ex.P16 and P17 are extracted hereafter:



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2. 81-2-16
 48-
2. 81-2-17

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3. இதுபோன்ற நீண்ட கால பயிற்சியுணர்ச்சிக்கு உன்னத உன்னதமல், வடிவம் துறாம் பெரிந்ததும் அல்லது புதுவகை எல்லாம் பெருக்கிய கிராமமேல் கிழிந்துள்ளது. அது உயரத்தில் உன்னதமணர்ச்சியின் அனையாமையாக கிட அமர்க்கலாம்.
4. பிறப்புமூலம் உன்னதமணர்ச்சி வரும் அல்ல.
5. அது உன்னதமணர்ச்சி நீண்ட காலமாக பெரிந்தது அல்லது அல்லது இவ்விதம் உற அனையினால் அமர்க்கலாம். (அல்லது அனையினால்)
6. மாதவியை இவ்விதம் பின்பு சமைய அமர்க்கலாம் தயை கிடைக்க அமர்க்கலாம்.





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15. P.W.14 has deposed about the receipt of complaint /Ex.P.1 and registration of First Information Report/Ex.P.19. P.W. 16 and PW. 18 have deposed about the investigation conducted by them and they also deposed about the age of the victim and also produced the certificate from the school authorities. The prosecution has established through evidence that the victim was aged about 12years at the time of occurrence.

16. The evidence of P.W.1 to P.W.3 cannot be discarded in any way, therefore the prosecution has established their case in respect of commission of offence. As per Section 29 of POCSO Act there is a presumption and there is no rebuttal evidence to rebut the presumption. Therefore the prosecution has clearly established the charges as against the accused person and the trial Court has correctly convicted the the first accused for the offences Section 5(l), 5 (n) r/w.6 of POCSO Act and the second accused for the offence under Section 5(l) r/w. 5(n) r/w. F of POCSO Act and Section 506(i)of IPC.



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17. As far as the offence under section 5(l) and 5 (n) of POCSO act

are concerned the P.W.3 has deposed that both the accused repeatedly had sexual intercourse with her and there is no dispute, the First accused is adoption father of the victim and the 2nd accused is close relative I.e. Cousin brother of the victim, therefore the prosecution proved charges under section 5(l), 5(n) r/w 6 of POCSO Act. As far as offence under section 506(i) of IPC is concerned the victim P.W.3 in her evidence stated that the second accused threatened her not to reveal the occurrence to anybody otherwise she would kill her, thereby the charge under section 506(i) IPC has been proved.

18. Therefore this Court need not interfere with the findings of the trial Court in respect of conviction. So far as punishment is concerned considering the nature of case and considering the facts and circumstance of the case and also considering the fact that there is no previous bad antecedents as against the accused person this Court is inclined to modify the sentence imposed by the trial court.



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19. Section 6 of POCSO Act, 2018 reads as follows:

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6. Punishment for aggravated penetrative sexual assault. –

Whoever, commits aggravated penetrative sexual assault, shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine

20. Therefore this court is inclined to modify the punishment awarded by the trial court and inclined to impose the minimum punishment of Ten years and to pay a fine of Rs. 1,00,000/- for each of the accused.

21. In the result, these Criminal Appeals stand partly allowed. The judgment of conviction passed by the learned Special Court (POCSO Act Cases) Virudhunagar District at Srivilliputhur is confirmed, however the substantive sentence of imprisonment for the offence under Section 6 of POCSO Act is modified and it is directed that instead of life imprisonment the accused shall undergo ten years rigorous imprisonment and to pay a fine of Rs. 1,00,000/- i/d to under go 6 month rigorous imprisonment. In all other aspects the judgment of the trial Court shall remain intact. The



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period of detention already undergone by the accused shall be set off

under Section 428 of Cr.P.C.,. All the sentences shall run concurrently. We fix the remuneration for the legal-aid counsel who appeared on behalf of the appellant in Crl.A.(MD).No.354 of 2026 at Rs.15,000/- and it shall be paid by the High Court Legal Services Committee, Madurai Bench of Madras High Court.

[N.A.V.,J] [P.D.B.,J]
08.04.2026

Internet : Yes / No

Index : Yes / No

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To

1. The Special Court (POCO Act Cases)
Virudhunagar District at Srivilliputhur

2. The Inspector of Police
All Women Police Station,
Virudhunagar District

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

4. The High Court Legal Services Committee,
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Madurai Bench of Madras High Court.

5. The Record keeper
Vernacular Records,
Madurai Bench of Madras High Court,
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