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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	:	15.04.2026
Pronounced On	:	24.04.2026

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A.(MD).Nos.476 of 2023 and 44 of 2026

Crl.A.(MD).No.476 of 2023

Venkatesh

...Appellant/
Accused No.2

Vs

The State Rep.By,
The Inspector of Police,
All Women Police Station,
Aranthangi,
Pudukottai District.
(Cr.No.7 of 2021)

... Respondent

PRAYER:- This Criminal Appeal has been filed under Section 374 (2) of Cr.P.C., against the judgment dated 24.05.2022 passed in Spl.S.C.No.24 of 2021 on the file of the Mahila Court, Pudukkottai, convicting the appellant under Section 5(n), 5(l) r/w 6(1) of POCSO Act and sentencing him to undergo life imprisonment which shall mean imprisonment for the remainder of the natural life of the accused and to pay a fine of Rs.70,000/-(Rupees Seventy Thousand only) in default to undergo simple imprisonment for a further period of one year.



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For Petitioner : Mr.S.M.A.Jinnah

For Respondent : Mr.A.Thiruvadikumar
Additional Public Prosecutor

CrI.A.(MD).No.44 of 2026

Parthiban

...Appellant/
Accused No.1

Vs

1.The State Rep.By,
The Inspector of Police,
All Women Police Station,
Aranthangi,
Pudukottai District.
(Cr.No.7 of 2021)

2.XXX
XXX

... Respondents

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For Petitioner : Mr.S.M.A.Jinnah

For Respondent : Mr.A.Thiruvadikumar
Additional Public Prosecutor

COMMON JUDGMENT

(Judgment of the Court was made by **K.K.RAMAKRISHNAN,J.**)

The accused in S.C.No.24 of 2021 on the file of the Mahila Court, Pudukkottai, have filed these Criminal Appeals, challenging the conviction and sentence imposed upon them under Section 5(n), 5(l) r/w 6(1) of POCSO Act and sentencing them to undergo life imprisonment which shall mean imprisonment for the remainder of the natural life of the accused and to pay a fine of Rs.70,000/-(Rupees Seventy Thousand only) in default to undergo simple imprisonment for a further period of one year.

2.Facts of the case:

The prosecution case, in brief, is that the victim girl (PW2) was subjected to repeated sexual assault by A1, her father, and A2, her cousin brother. In consequence of such acts, the victim became pregnant. The said fact came to light when PW1, the mother of the victim, noticed physical changes and, upon



suspicion, took the victim to the hospital. On medical examination, it was revealed that the victim was carrying a foetus of approximately seven months.

Upon noticing the pregnancy of the victim, PW1, the mother of the victim, lodged a complaint before the jurisdictional police. P.W.8, the then Sub-Inspector of Police, received the complaint and registered the First Information Report in Crime No.7 of 2021 for offence under Section 5(n), 5(l) r/w 6(1) of POCSO Ac.. The express FIR was duly forwarded to the jurisdictional Court and to the superior in compliance with procedural requirements. Subsequently, P.W.9, the Investigating Officer, took up the investigation. He visited the scene of occurrence, prepared the observation mahazar and rough sketch, and examined the witnesses. The statement of the victim was recorded, and necessary steps were taken to obtain her statement under Section 164 of the Code of Criminal Procedure before the learned Judicial Magistrate. During the course of investigation, A1 was arrested on 06.07.2021, victim gave birth a female child on 01.02.2005. Thereafter, upon further inquiry and collection of materials, the involvement of A2 came to light, and he was arrested on 03.09.2021. The Investigating Officer examined several witnesses and collected relevant documentary evidence, including the school records of the victim to establish her age. Further, the accused persons were subjected to medical and forensic examination. Blood samples were collected and sent for DNA analysis.

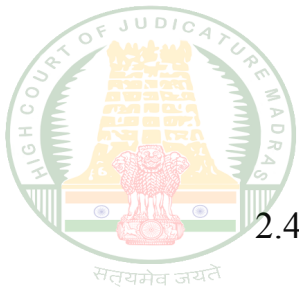


The DNA report revealed that A1 was not the biological father of the child, whereas A2 was conclusively found to be the biological father.

2.1. Upon completion of investigation, including examination of medical experts and other witnesses, the Investigating Officer filed the final report before the Special Court. The case was taken on file as Special S.C.No.24 of 2021.

2.2. The learned trial Judge, after securing the presence of the accused, furnished copies of the prosecution documents under Section 207 Cr.P.C., framed the necessary charges, and questioned the accused. The accused denied the charges, pleaded not guilty, and claimed to be tried.

2.3. To substantiate the charges, the prosecution examined PW1 to PW9 and marked Exhibits P1 to P14. Thereafter, the accused were examined under Section 313 Cr.P.C., wherein they denied all incriminating circumstances as false. No defence witnesses were examined, nor any documents were marked on the side of the defence.



2.4.The learned trial Judge, upon appreciation of the entire evidence on record, found the appellants guilty and convicted both A1 and A2 under the relevant provisions of law.

2.5.Aggrieved by the said conviction and sentence, A1 has preferred Criminal Appeal No.44 of 2026, and A2 has preferred Criminal Appeal No. 476 of 2023.

3.Submissions of the learned counsel appearing for the appellant/Accused No.1 in CrI.A.(MD) No.44/2026:

The learned counsel appearing for the appellants would contend, insofar as A1 is concerned, that the DNA analysis report has conclusively ruled out A1 as the biological father of the child. In such circumstances, it is submitted that the very substratum of the prosecution case against A1 becomes doubtful.

3.1.It is further contended that, as per the testimony of PW2, the alleged occurrences took place during the period of the COVID-19 lockdown, when all family members had to stay in doors and were confined in their house. This circumstance, according to the learned counsel, renders the allegation of repeated sexual assault by A1 inherently improbable.

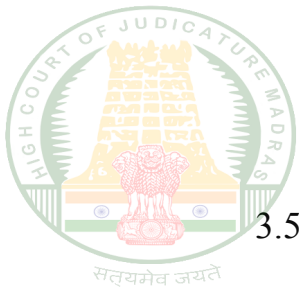


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3.2.The learned counsel would also submit that the period of pregnancy does not tally with the alleged acts attributed to A1. It is further argued that the victim had a prior love affair with another, person thereby creating a reasonable doubt as to the paternity of the child and the involvement of A1.

3.3.Additionally, it is contended that there was matrimonial discord between PW1 and A1 earlier on account of inter-caste differences, and that due to such enmity, PW1, in collusion with others, has falsely implicated A1 in the present case. It is also argued that the allegations against A1 are not supported by any corroborative medical evidence and that the testimony of PW2, to that extent, is unreliable. On these grounds, acquittal of A1 is sought.

3.4.Insofar as A2 is concerned, the learned counsel would submit that mere reliance on the DNA report is insufficient to sustain a conviction. It is argued that the victim was allegedly in contact with many persons, had stayed away from home on several occasions without informing her mother, and had been working in Tiruppur, thereby raising doubts about the prosecution version.



3.5. It is further contended that the testimony of PW2 is inconsistent and untrustworthy, and that she cannot be treated as a wholly reliable witness.

Therefore, it is urged that both A1 and A2 are entitled to the benefit of doubt.

3.6. The learned counsel also assails the prosecution on the ground that the age of the victim has not been conclusively proved. It is submitted that no birth certificate was produced, and the prosecution has relied solely upon the school certificate. Hence, according to the learned counsel, the benefit of doubt must enure to the accused.

4. Submissions of the learned Additional Public Prosecutor:

Per contra, the learned Additional Public Prosecutor would submit that the testimony of PW2 is cogent, natural, and inspires confidence. It is further submitted that, insofar as A2 is concerned, the DNA report conclusively establishes his paternity, thereby providing strong corroboration to the victim's version.

4.1. The learned Additional Public Prosecutor would further contend that the defence has failed to rebut the statutory presumptions under Sections 29 and 30 of the Protection of Children from Sexual Offences Act. No plausible

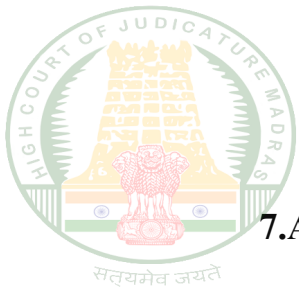


explanation has been offered by the accused in their examination under Section 313 Cr.P.C. regarding the incriminating circumstances appearing against them.

4.2. In respect of A1, it is submitted that the sole testimony of the victim, if found credible and it is sufficient to sustain conviction even in the absence of corroborative medical or scientific evidence. Therefore, it is argued that the conviction recorded by the trial Court does not warrant interference.

5. This Court carefully considered the rival submissions made by the learned counsel appearing for the appellants and the learned Additional Public Prosecutor appearing for the respondent and perused the entire materials available on record.

6. The question arising for consideration in this case is whether the prosecution has established the case beyond reasonable doubt against the appellants and the conviction and sentence imposed by the learned trial Judge against the appellants can be sustained or not?



7.Age of the Victim

Insofar as the age of the victim is concerned, PW1, the mother of the victim, has deposed that the date of birth of the victim is 01.02.2005. The evidence further discloses that the victim had discontinued her studies from the school where PW4 was serving as the Headmaster. PW4 has produced the Transfer Certificate, marked as Ex.P6, which was received in evidence without any demur. He has also spoken about the particulars of the victim's schooling.

7.1.In view of the consistent and cogent evidence of PW1 and PW2, duly corroborated by the documentary evidence through PW4, this Court holds that the victim was aged about 17 years as on the date of registration of the FIR. Consequently, she falls within the definition of a “child,” and the provisions of the Protection of Children from Sexual Offences Act are clearly attracted.

8.Discussion on the Evidence of PW2 and the Alleged Involvement of A1

The prosecution case, as against A1, rests primarily on the testimony of PW2. The factual matrix reveals that PW1 had initially married one Sokkumar in the year 2000, through the said marriage PW2 and another male child were born. Due to alleged cruelty, PW1 separated from her first husband around 2009 and subsequently married A1, despite resistance from his family on



account of caste differences. It has also come on record that A1 whole heartedly accepted PW1 and her children and was maintaining the family.

8.1.The allegation against A1 is that during the period when the country was affected by COVID-19, he subjected PW2 to sexual assault. However, a careful scrutiny of the evidence reveals that PW2 has spoken only about a solitary incident. Significantly, during the recording of her statement under Section 164 Cr.P.C., PW2 exhibited hesitation and disinclination in implicating A1, which has been duly noted by the learned Judicial Magistrate:-

8.2.Further, both PW1 and PW2 have admitted that several family members, including A1, PW1, PW2, her brother, and A2 (the cousin), were residing together in the same house. The occurrence is alleged to have taken place during the COVID-19 period, when all members were largely stayed indoors. In such circumstances, the version that A1 had the opportunity to commit the alleged act, unnoticed by anyone, appears inherently improbable.

8.3.Moreover, from the evidence of PW2, it emerges that she had, at relevant points of time, stayed away from the house and had been in contact



with her biological father at Tiruppur. It is also elicited that she had frequent interaction with A2 and has specifically spoken about the relationship with him.

8.4. In the above factual backdrop, this Court finds that the allegation against A1 is not free from doubt. The defence version that, owing to prior matrimonial discord and caste-related objections, A1 has been falsely implicated, appears to be a plausible explanation.

8.5. This probability is further strengthened by the scientific evidence on record. The DNA analysis report categorically excludes A1 as the biological father of the child. It is pertinent to note that the prosecution has not specified the exact date on which the alleged relationship between the victim and Accused No.1 commenced. On the contrary, the case put forth rests upon a solitary instance of alleged sexual intercourse involving Accused No.1. In the given factual matrix, where allegations are levelled against multiple individuals purported to have had sexual relations with the victim, the mere absence of a positive DNA report cannot, ipso facto, be construed as conclusive proof negating the occurrence of such relationship. Particularly, where prior pregnancy or intervening biological factors may affect the probative value of DNA analysis, a negative or inconclusive report does not automatically



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exonerate the accused from the allegation of sexual involvement. However, in the present case, this Court, upon a careful appreciation of the evidence, finds that the victim has attributed the alleged act to a specific date. The said version has been critically examined in light of surrounding circumstances, inherent improbabilities, and inconsistencies emerging from the record. On such evaluation, the allegation against Accused No.1 does not inspire confidence. Accordingly, the conclusion arrived at by this Court is grounded in the peculiar facts and evidentiary assessment of the present case. It is hereby clarified that the observations made with respect to the evidentiary value of a negative DNA report shall not be treated as a binding precedent in other cases, particularly in cases of involving allegations of gang sexual assault, where the evidentiary dynamics may substantially differ. While it is settled law that absence of DNA linkage is not by itself determinative of innocence in every case, in the present factual matrix, it assumes significant evidentiary value in testing the veracity of the prosecution case against A1.

8.6. Additionally, there is no material on record to indicate that A1 had, at any point of time, exhibited any abnormal or inappropriate conduct towards PW2, On the contrary, the evidence suggests that despite social opposition to the marriage, he married and accepted the victim's mother when she came to



him along with the two children due to a marital dispute with her first husband and he had been maintaining the family and taking care of the children, and thereafter raised the children as his own. In such circumstances, it becomes necessary to examine whether the allegation of sexual assault against him is consistent with the ordinary course of human conduct and the surrounding circumstances. While the underlying reasons for making the accusation may be within the exclusive knowledge of the victim, the absence of any discernible materials casts a doubt on the credibility of the prosecution case.

Taking into account the cumulative effect of:

- (i) the hesitation and disinclination of PW2 in her earlier statement,
- (ii) the inherent improbabilities in the prosecution version,
- (iii) the surrounding family circumstances, and
- (iv) the exculpatory DNA evidence,

this Court is of the considered view a reasonable doubt arises as to whether the accused has in fact committed the offence and the prosecution has failed to establish the guilt of A1 beyond reasonable doubt.

8.7. Accordingly, the benefit of doubt must enure to A1, and he is entitled to acquittal.



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9. Discussion on the Involvement of A2

Insofar as A2 is concerned, it is true that at the initial stage, namely at the time of registration of the FIR, the victim (PW2) did not implicate A2. However, it is well settled that an FIR is not an encyclopaedia of all facts, and omissions therein are not, by themselves, fatal to the prosecution case, particularly in cases involving sexual offences.

9.1. A careful scrutiny of the subsequent materials reveals that, in her statement recorded under Section 164 Cr.P.C. as well as in her deposition before the Court, PW2 has categorically stated that A2, who is her cousin brother, had subjected her to repeated sexual intercourse. She has further deposed that A2 had taken her to different places, including his native village at Valaramanickam, and had physical relations with her on many occasions.

9.2. The evidence of PW1 also lends corroboration to this aspect, as she has spoken about the victim having gone to the village of A2 and being subsequently brought back after elder's intervention. Significantly, PW2 has consistently maintained that even thereafter, A2 continued to have a sexual relationship with her.

9.3. Though certain inconsistencies or omissions are pointed out in the

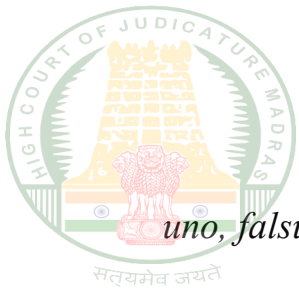


earlier version, the core of the prosecution case, insofar as it relates to A2, remains intact and consistent. The testimony of PW2, to that extent, inspires confidence and cannot be discarded merely on account of initial omission.

9.4. Most importantly, the ocular testimony of PW2 stands strongly corroborated by the scientific evidence. The DNA analysis report conclusively establishes that A2 is the biological father of the child born to the victim. This constitutes a strong incriminating circumstance, lending substantial assurance to the prosecution case.

9.5. In the light of the above evidence, the statutory presumptions under Sections 29 and 30 of the Protection of Children from Sexual Offences Act are clearly attracted. Once the foundational facts are established, the burden shifts upon the accused to rebut the presumption. In the present case, A2 has neither offered any plausible explanation in his examination under Section 313 Cr.P.C. nor adduced any defence evidence to dislodge the said presumption.

9.6. It is also a settled principle of law that even if a part of the testimony of a witness is found to be unreliable, the Court is entitled to rely upon the credible and trustworthy portion of such evidence. The doctrine of *falsus in*



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uno, falsus in omnibus is not applicable in Indian criminal jurisprudence. In this regard, the Hon'ble Supreme Court has consistently held that the Court can separate the grain from the chaff and act upon the reliable portion of the evidence.

9.7. Applying the said principle, even if certain allegations of PW2 are disbelieved in respect of A1, the consistent, cogent, and corroborated portion of her testimony against A2 remains unimpeached and is sufficient to sustain the conviction.

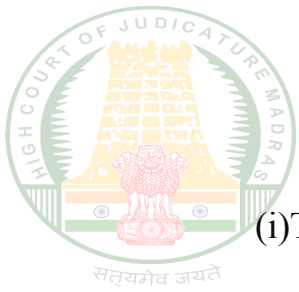
9.8. Accordingly, this Court finds that the prosecution has proved the charges against A2 beyond reasonable doubt.

10. Result

In view of the foregoing discussion:

(i) The appeal preferred by A2 in Criminal Appeal No.476 of 2023 is dismissed, and the conviction and sentence imposed by the trial Court are hereby confirmed.

10.1. The appeal preferred by A1 in Criminal Appeal No.44 of 2026 is allowed on the following terms:



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(i)The conviction and sentence imposed on the appellant by the learned Judge, Mahila Court, Pudukkottai in S.C.No.24 of 2021 is hereby set aside.

(ii)The appellant/A1 is acquitted of all charges.

(iii)The appellant/A1 shall be released forthwith, if his custody is not required in connection with any other case.

(iv)The bail bond, if any executed, shall stand cancelled. Any fine amount paid shall be refunded.

[N.A.V.,J.] & [K.K.R.K.,J.]
24.04.2026

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
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To

1.The Mahila Court,
Pudukkottai.

2.The Inspector of Police,
All Women Police Sation,
Aranthangi, Pudukkottai District.



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

sbn

Judgment made in
Crl.A.(MD).No.476 of 2023 and 44 of 2026

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