



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2026

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THE HONOURABLE MR JUSTICE G.K.ILANTHIRAIYAN

AND

THE HONOURABLE MS JUSTICE R.POORNIMA

Crl.A(MD)No.694 of 2022

Kottaisavarimuthu : Appellant/Sole Accused

Vs.

The Inspector of Police,
All Women Police Station,
Keelakarai,
Ramanathapuram District.
(Crime No.2/2021)

: Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, against the judgment of conviction and sentence passed by the Mahila Fast Track Court, Ramanathapuram, in Special SC No.51 of 2021, dated 25.04.2022 and to set aside the same and consequently to acquit the appellant.

For Appellant : Mr.S.Manoharan

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor



JUDGMENT

(Judgment of the Court was made by the Hon'ble **R.POORNIMA, J.**)

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This Criminal Appeal is filed against the judgment of conviction and sentence passed against the appellant/sole accused in Special SC No.51 of 2021, dated 25.04.2022 by the Sessions Judge, Fast Track Mahila Court, Ramanathapuram, thereby, the appellant/sole accused had been convicted for the offences punishable under Section 9(1),(n),(r) & 10 of Protection of Child from Sexual Offences Act, 2012 and sentenced him to undergo seven years Rigorous Imprisonment and to pay a fine of Rs.50,000/-, in default to undergo simple imprisonment of one year, and also convicted and sentenced him to undergo Rigorous Imprisonment until death under Section 5(1),(n),(r) and 6 of Protection of Child from Sexual Offences Act, 2012 and imposed a fine of Rs.5,0,000/-, in default to undergo simple imprisonment for five years; further he was convicted and sentenced to undergo rigorous imprisonment of two years under Section 506(ii) (2) counts.

2.The case of the prosecution in brief is as follows:-

(a) The complaint was lodged by the mother of the minor victim child before the All Women Police Station, Keelakarai, Ramanathapuram District, with the following averments:-



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The minor victim is the daughter of the complainant and was studying in the 9th Standard at the relevant time. During the period of COVID-19 pandemic, the children were staying with their parents at home. The complainant was working as a cook in various houses, and her husband was also engaged in cooking work. Due to the nature of her work, she used to return home only during the night hours after completing her work. At that time, the accused committed penetrative sexual assault on the minor girl and also threatened her that if she disclosed the same to anyone, he would kill her. Due to the said threat, she did not reveal the occurrence to anyone. On 04.04.2021 at about 01.30 p.m., when the complainant was sitting outside the house along with her family members, her husband and the minor victim inside the house. At that time, the minor victim suddenly made an alarm. Immediately, she rushed to the house and witnessed that her husband kissed her and misbehaved with her. Thereafter, the minor victim child went to the neighbouring house and attempted to commit suicide by consuming super vasmol. Immediately, the complainant rushed there and rescued her. On enquiry, her daughter revealed that her father had been frequently committing the sexual abuse, whenever the complainant left the house for her cooking work during the night hours. She further stated that after her brothers fallen asleep, the accused approached her, threatened her and committed penetrative sexual assault under threat. When she questioned his act, he



threatened that that if she disclosed the incident, to anybody he would kill the complainant and the minor victim child. Due to such intimidation, she reminded silent for sometime, and thereafter the present complaint Ex.P2.

(b) The complaint was received by PW13-Tmt.Sagayarani, Sub Inspector of Police, attached to AWPS, Keelakarai. She received the complaint on 18.04.2021 at about 10.00 a.m., and registered the FIR in Crime No.2 of 2021 for the offences punishable under Section 5(l), 5(n), 6, 9(l), 9(n) r/w 10 of POCSO Act and Section 506(ii) IPC, under Ex.P9. She sent the original FIR to the concerned Court and copies to the higher officials, for further action.

(c) PW14-Tmt.Thilagarani, Inspector of Police, took up the case for investigation and went to the place of occurrence on the same day at 11.00 p.m., and prepared observation mahazar (Ex.P3) and rough sketch (Ex.P10). She enquired PW1 and the minor victim child and recorded their statements. She sent the victim girl through Head Constable Tmt.Muthumariammal, for medical examination to the Ramanathapuram Government Medical College Hospital.

(d) PW10-Dr.Rajavasanthakumari examined the minor victim child and found no external injury on her external part of body her private parts admit little fingers. But her hymen was intact. She issued the medical certificate (Ex.P6).

(e) Thereafter, PW14—the Inspector of Police, arrested the accused on 18.04.2021 at about 03.00 p.m., recorded his confession statement and remanded



him to judicial custody. On 21.04.2021, she sent the accused through the Head Constables Thiru.Ramakrishnan and Thiru.Kumaresan to the Government Medical College Hospital, Ramanathapuram, for medical examination.

(f) Thereafter, PW11–Dr.Anand examined the accused and issued a medical certificate marked as Ex.P7, opining that there was nothing to suggest that the accused was impotent. Subsequently, the Investigating Officer received the school certificate of the victim child from Poopandiyapuram Panchayat Middle School, which was marked as Ex.P4.

(g) Thereafter, she sent a requisition to the Judicial Magistrate No.I, Ramanathapuram, for recording the statement of the victim child under Section 164 Cr.P.C. Accordingly, the statement of the victim child was recorded by the Judicial Magistrate No.I, Ramanathapuram, and the same was marked as Ex.P1.

(h) The Investigating Officer also recovered the material objects from the minor victim child and sent the same for chemical examination. Thereafter, due to her transfer, she handed over the case file to PW15–Tmt.Radha, Inspector of Police.

(i) PW15 took up the case for further investigation, received the chemical analysis report, obtained the Accident Register copies from the Doctors, and also re-examined the witnesses. After completing the investigation, she filed the final report on 14.07.2021.



3. On receipt of the records, the Trial Court, namely the Fast Track Mahila Court, Ramanathapuram, took the case on file in Special S.C.No.51 of 2021 and issued summons to the accused. On the appearance of the accused, copies of the entire records were furnished to him free of cost under Section 207 Cr.P.C.

4. Thereafter, the Trial Court framed charges against the accused under Sections 9(l), (n), (r) and 10 of the POCSO Act, 2012; Sections 5(l), (n), (r) and 6 of the POCSO Act, 2012; and Section 506(i) IPC (two counts). The charges were read over and explained to the accused. The accused denied the charges and pleaded not guilty, and therefore, the case was posted for trial.

5. On the side of the prosecution, PW1 to PW15 were examined, and Ex.P1 to Ex.P10 marked and on the side of the appellant DW1 to DW3 were examined .

6. By judgment dated 25.04.2022, the Trial Court convicted the accused as stated above.

7. Against which, this appeal is filed by the accused with the following many other grounds:-



There is no evidence available to connect the accused with the crime.

The appellant contended that his wife was having an illicit relationship with several persons and, when the same was questioned by him, she misguided the victim child to depose against the appellant and foisted a false complaint. The Trial Court failed to properly appreciate the evidence of DW1 to DW3. He further argued that the medical records do not support the prosecution case. According to him, a false case has been foisted against him in connivance with his wife (PW2). However, without properly appreciating the evidence adduced on the side of the defence, the Trial Court convicted the accused. Therefore, the judgment of conviction and sentence recorded by the Trial Court is liable to be set aside and the appeal has to be allowed.

8. On the other hand, the learned Additional Public Prosecutor supported the findings of the Trial Court and contended that the minor victim girl has clearly spoken about the offence committed by the appellant. Her evidence is duly corroborated by PW2, the mother of the victim. Further, PW4 and PW6, who are the brothers of PW2, have also spoken about the occurrence and corroborated the evidence of the victim girl. Further, the medical evidence of the Doctor also supports the prosecution case. Hence, the learned Additional Public Prosecutor prayed for dismissal of the appeal and for confirmation of the conviction and sentence rendered by Trial Court.



9. Heard the learned counsel on either side and perused the materials available on record.

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10. In this case, PW1 has clearly deposed before the Trial Court that she was studying in the 8th Standard and was staying at home. Her mother used to go for housemaid work and also for cooking in various houses. Due to the COVID-19 pandemic, she attended her classes from home and lived in a hut along with her parents. Whenever her mother left the house for work, along with her grandmother, the victim girl used to remain alone in the house. At that time, the accused took advantage of the situation and touched her inappropriately and also kissed her. During night hours, the accused removed her dresses and committed the penetrative sexual assault. Due to the said, she felt embarrassed. However, the accused repeatedly committed the same offence. When he committed the offence, she experienced severe pain. When she questioned him about the same, he assaulted her, and attempted to burn her with heat. Being frightened by his conduct, she remained silent. He further threatened her that if she disclosed the incident to anyone, he would kill her mother and brothers. Due to such threat and fear, she did not reveal the same to anyone. On 04.04.2021, she went to cook rice in the house. At that time, all other inmates were staying outside. Her father came and squeezed her breast and kissed her, she resisted him and prevented him from doing so. At that time, her younger brother came there,



and witnessed the occurrence and immediately brought her mother. On account of the shame, she attempted to consume supervasmol. However her mother prevented her from committing suicide and enquired about the reason for the same. At that time, her father attempted to conceal the truth. Thereafter, the girl disclosed the illegal act committed by the accused. When the same was questioned by her mother, the accused stated that he would not commit such mistake again. When the act of the accused was informed to his relatives, they supported him instead of condemning his conduct. Subsequently, her grandmother came there and decided to lodge the complaint. Thereafter, they went to the Police Station and gave the complaint.

11.The complainant was examined under Section 164 Cr.P.C by the Judicial Magistrate under Ex.P1 on 30.04.2021. She deposed that her biological father alone committed the penetrative sexual assault and that due to fear and threat made by him, she could not reveal the same to anyone. Her evidence is also corroborated by PW2 the mother of the minor victim child.

12.The evidence of PW10, Dr.Rajavasanth Kumari corroborated with the evidence of PW1 namely the victim girl. Though the Doctor stated that her hymen is intact, she clarified in the cross examination that in all sexual offences, the hymen of victim need not necessarily be torn, it depends upon the degree of

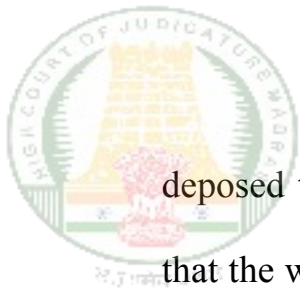


force or pressure applied by the perpetrator. The absence of a tear the hymen or lack of genital injuries is not always a ground to disbelieve a victim testimony that she was not subjected to penetrative sexual assault and there is no need to tear the hymen in all the penetrative sexual offence. Under the Act, the focuses on the act of penetration, not on causing physical injury. Therefore, the absence of a tear in the hymen does not automatically discredit a victims testimony.

13. PW4 and PW6 are the brothers of PW2. PW7 is her elder sister and PW5 is an independent witness viz., neighbour of PW1. All are supporting the version of PW2.

14.PW8, the Headmistress of Poopandiyapuram Panchayat Middle School, issued the age certificate of the minor victim girl. The appellant has not seriously disputed the age of the victim.

15.In this case, on the side of the appellant, DW1 to DW3 were examined. They attempted to speak about the alleged character of PW1 by stating that her character was not good and that a false case had been foisted against the accused through the victim child. DW1, during her chief examination, stated that the minor victim girl informed her that, due to pressure exerted by her mother, she had falsely implicated her father in the case. DW2



deposed that the accused and his wife frequently quarreled with each other and that the wife assaulted the accused and falsely lodged the complaint against him.

DW2 further stated that PW1 was allegedly having an illicit relationship with someone and, when the same was questioned by the accused, a false complaint was foisted against him. DW3 also deposed on similar lines.

16.However, the minor victim girl has clearly spoken about the offence committed by the accused during her chief examination. She had also given a consistent statement before the Judicial Magistrate when she was examined under Section 164 Cr.P.C. Further, she reiterated the same facts before the Doctor who examined her. Her evidence is also supported by the medical evidence. Therefore, the defence evidence does not support the case of the accused.

17.In cases of sexual offence, the evidence of the victim alone is sufficient to prove the offence. The accused is none other than the biological father of the minor victim child, who is expected to safeguard and protect his daughter instead he took advantage of the absence of his wife namely PW2 and his dominant position has committed the penetrative sexual assault on his own minor daughter. He threatened her not to disclose the incident to anyone and thereby, made the life of victim girl miserable. Owing to such threat and fear, she



could not reveal the occurrence to anyone. Considering all these aspects, the Trial Court convicted the accused for the maximum punishment of Life Imprisonment. This Court finds no infirmity or illegality in the judgment of conviction and sentence recorded by the Trial Court.

18.In the result, the criminal appeal fails and the same is **dismissed**, confirming the judgment of conviction and sentenced recorded by the Trial Court.

(G.K.I., J) (R.P., J)
27.01.2026

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To,

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



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