

CRL A(MD). No.850 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.06.2026

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CORAM

**THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH
AND
THE HONOURABLE MR. JUSTICE P.B. BALAJI**

CRL A(MD). No.850 of 2023

Sudalai Mani

... Appellant / Sole accused

Vs

The State through Inspector of Police,
All Women Police Station,
Pudukottai, Thattaparai Police Station
Tuticorin District.

Crime No.245/2019.

... Respondent / Respondent

PRAYER :- Criminal Appeal filed Section 374(2) of the Code of Criminal Procedure, to call for the records in Spl.S.C.No.245 of 2019 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Tuticorin, Tuticorin District and to set aside the judgment dated 28.08.2023 passed by the Special Court for Exclusive Trial of Cases under POCSO Act, Tuticorin, Tuticorin District and thereby acquit the accused from the charges.



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For Appellant : Mr.M.Jerin Mathew
for M/s. S.Muthumeena

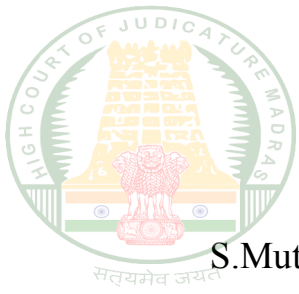
For Respondent : Mr.G.Karuppasamy Pandian
Government Advocate (Crl.Side)

JUDGMENT

P.B. BALAJI,J.

The sole accused in Spl.S.C.No.245 of 2019 on the file of the Special Court for Exclusive Trial of Cases under the POCSO Act, Tuticorin, is the appellant before us, challenging the conviction under Section 5(l) read with Section 6 of POCSO Act, convicting the appellant and sentenced to undergo life imprisonment and also directed him to pay fine of Rs.10,000/-, in default, to undergo simple imprisonment for six months. The appellant was also convicted under Section 323 IPC and sentenced to undergo one year simple imprisonment and also directed payment of a fine of Rs.1,000/-, in default, to undergo one month simple imprisonment. The charge under Section 506(ii) I.P.C was held to be not proved by the Special Court and the accused was acquitted from this charge.

2. We have heard Mr.M.Jerin Mathew, learned counsel for M/s.



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S.Muthumeenam, learned counsel for the appellant and
Mr.G.Karuppasamy Pandian, learned Government Advocate (Crl.Side)
appearing for the State.

3. The case of the prosecution is that the minor victim boy, aged 14 years, was pursuing 10th Standard in xyz Higher Secondary School and that the accused was also from the same village. The accused in the month of May – 2014, under the guise of grazing goats and offering food for the minor victim boy, took the victim to a secluded spot and sexually abused him. The accused repeated the offence on 09.12.2014, during School hours and within the school premises, at about 12.45 pm, in the afternoon. According to the prosecution, the victim boy informed his teacher, who in turn took him to the Head Master and the father of the victim was also called to the School, who insisted on lodging of a complaint. Based on the complaint, F.I.R was registered under Section 5(l) read with Section 6 of the POCSO Act as well as Sections 323 and 506(ii) I.P.C. On completion of investigation, final report has been filed before the jurisdictional Court and the same has been taken on file in Spl.S.C.No.245 of 2019 on the file of the Special Court for Exclusive



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Trial of Cases under POCSO Act, Tuticorin, Tuticorin District.

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4. The prosecution examined the victim boy as P.W.1 and the father of the victim boy was examined as P.W.2. P.W.3, who was examined as an eyewitness, however, turned hostile. The Teacher of the victim, to whom the victim boy reported the incident immediately, was examined as P.W.4. The Head Master of the school was examined as P.W.5. Yet another eye witness was examined as P.W.6, who also turned hostile. A Mahazer witness was examined as P.W.7. The Head constable was examined as P.W.8. The Sub Inspector of Police, who registered the F.I.R, was examined as P.W.9. The Sub Registrar was examined as P.W. 10, in support of the age of the victim. P.W.11 is the Doctor, who examined the victim at the hospital. P.W.12 is the Doctor, who examined the accused. P.W.13, is yet another mahazer witness. P.W.14, P.W.15 and P.W.16 are the investigating officers, who dealt with the case at various point of time, apart from P.W.9, who registered the F.I.R.

5. The Special Court, on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to a conclusion that the prosecution has proved the case beyond all



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reasonable doubt and proceeded to convict and sentence the accused person in the manner stated supra. Aggrieved by the same, the accused has filed the present appeal before this Court.

6. The learned counsel for the appellant, Mr.M.Jerin Mathew, would contend that the trial Court has relied upon the testimony of the victim alone to convict the appellant in the matter, without taking note of the serious contradictions in his version. Pointing out to the evidence of P.W.1, the learned counsel for the appellant would contend that P.W.1 claims to have met his sister immediately after the alleged sexual assault, but, never chose to mention to his sister, about the same. He would also state that the original stand of the prosecution was that the victim had informed the class teacher, who in turn, took the victim to the Head Master and thereafter, the father of the victim was called, before lodging the complaint. However, in his deposition, during trial, P.W.1 has categorically asserted that he informed his father first, which falsifies the prosecution theory that the teacher was informed first. The learned counsel would also state that the evidence of P.W.4 and P.W.5, viz., Teacher and Head Master also does not inspire any confidence, since

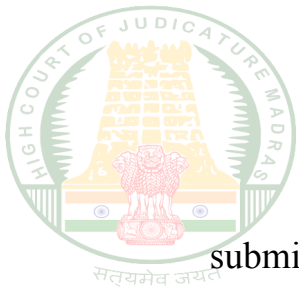


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they also feign ignorance of the alleged claim of sexual assault and have merely spoken about the physical assault on the victim boy. He would also point out to the evidence of P.W.4 - Teacher that the police official came to the School at 05.00 pm, to conduct enquiry, which was highly improbable, in the light of P.W.1's evidence that only, after returning home in the night, he had told his father about the incident and the F.I.R also being registered much later, at around 11.00 pm.

7. The learned counsel would state that there is absolute lack of any medical evidence regarding the sexual assault, which is pre-condition for convicting the accused for the offences under Section 5(1) read with 6 of POCSO Act.

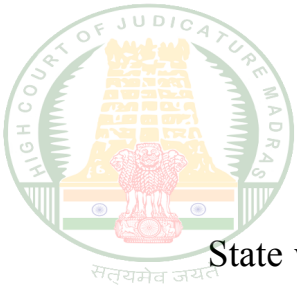
8. It is the further case of the learned counsel for the appellant that the entire incident was a figment of imagination of the family of the victim, since the victim's sister was in love with the accused and in order to take revenge on the accused, he has been framed and therefore, the charge and complaint itself was clearly motivated, which motive has not even been judiciously discussed by the Special Court. In short, the



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submissions of the learned counsel for the appellant is that the complaint was purely motivated; the contradictory versions in the Sections 161 and 164 statements have not been properly appreciated by the Special Court; there has been a delay in lodging the F.I.R, after the incident is alleged to have occurred at 12.45 (afternoon), serious contradictions in the versions projected by P.W.1- the victim, P.W.4 - the teacher, clearly point to the fact that there is no truth in any of the charges framed against the accused.

9. Per contra, Mr.G.Karuppasamy Pandian, learned Government Advocate (Crl.Side), appearing for the State, would state that in sensitive matters like these, arising under the POCSO Act, the evidence of the victim is more than sufficient, as long as the evidence appeals to the conscience of the Court. He would further state that such an incident cannot be expected to be eye witnessed for the prosecution to bring out facts through eyewitnesses. He would therefore state that even though the alleged eyewitnesses had turned hostile, it will not have any serious bearing, considering the evidence of P.W.1. As regards the inconsistencies, the learned Government Advocate (Crl.Side) for the



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State would contend that the inconsistencies were only minor and do not in any manner affect the foundational facts, which have been proved beyond all reasonable doubt. He would also state that P.W.8-Doctor had clearly adduced medical evidence, which corroborates with the evidence of P.W.1, the victim himself and therefore, there is no merit in the argument that the Special Court has convicted the appellant without any medical evidence being brought on record.

10. We have carefully considered the submissions advanced by the learned counsel for the parties and perused the materials available on record.

11. By examining the Sub Registrar, and marking the birth certificate of the victim through P.W.10, the prosecution has satisfied the factum of minority of the victim boy and thus launching of the proceedings under the POCSO Act. We have carefully perused the evidence adduced by the victim boy - P.W.1. The incident occurred in the year 2014, when the victim was a minor aged about 14 years. However, he has been examined in chief and cross, after he became



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major and was aged 19 years and therefore, there are bound to be some inconsistencies in his evidence during the trial stage. At the same time, we do not find such inconsistencies going to the root of the matter, discharging the serious charges of sexual assault, against the victim by the appellant / accused. The evidence with regard to sexual assault as found in Sections 161 and 164 statements and during trial of the case before the Special Court is made out and we do not notice any grave inconsistencies which compel us to give any weightage to the arguments of the learned counsel for the appellant that in view of the inconsistencies, the findings of the Special Court are perverse and improper.

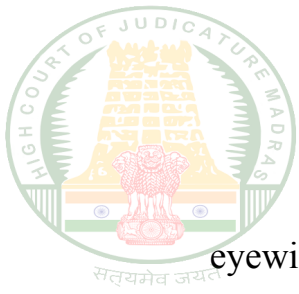
12. In fact, P.W.11-Doctor had personally examined the victim boy and his evidence clearly confirms the fact that the victim has been sexually assaulted, which clearly corroborate with the evidence of the victim. Ex.P8 clearly speaks about the injuries to the victim boy in his anal region. The victim was an innocent boy aged 14 years at the time of the alleged incident. His evidence, though recorded after he attained majority and on completion of 19 years is very cogent and natural.

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Therefore, when the evidence is adduced after a period of 5 years, that too in such a sensitive matter, the Court is bound to be alive to the fact that the victim cannot be expected to narrate the alleged incident with mathematical accuracy. As already stated hereinabove, the contradictions in his evidence qua Sections 161 and 164 statements, do not in any manner weaken the case of the prosecution. Moreover, though elaborate submissions were made by the learned counsel for the appellant, on motive, we do not find any satisfactory material brought on record excepting for certain suggestions put in cross examination of the prosecution witness, especially, P.W.1 and P.W.2, viz., victim and the father of the victim, which have been categorically denied by the witnesses. In fact, even in the Section 313 Cr.P.C. statement, we do not find anything to support the case of the appellant as well. The appellant has miserably failed to establish the motive theory putforth. We are conscious of the fact that an offence under the POCSO Act is very sensitive in nature and trial of cases under the special enactment cannot be akin to traditional criminal cases like that of a murder or culpable homicide, where the evidence of



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eyewitnesses, delay in lodging prosecution or even lodging FIR may be relevant and even fatal.

13. We are dealing with the safety and privacy rights of a minor boy, who has been sexually abused and assaulted by the appellant. As already discussed the evidence of the victim certainly inspires confidence, for us to accept the same, especially, in the absence of any rebuttal evidence on the side of the accused. We have already held that the alleged inconsistencies pointed out by the learned counsel for the appellant also do not displace the strong evidence of the victim minor boy himself. Therefore, we do not find any grounds arising to set aside, the conviction under Section 5(l) read with Section 6 of the POCSO Act as well as Section 323 of the I.P.C. However, we notice certain mitigating factors, viz., the age of the accused at the time of the alleged incident and also taking into account the fact that the accused has been in prison throughout and therefore we are inclined to modify the punishment under Section 5(l) read with Section 6 of the POCSO Act, from life imprisonment to 10 years rigorous imprisonment, while confirming the remaining sentence.



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14. In fine, the Criminal Appeal is partly allowed. The conviction passed in Spl.S.C. No.245 of 2019 on the file of the Special Court for Exclusive Trial of Cases under the POCSO Act, Tuticorin, Tuticorin District, is confirmed. The sentence of one year simple imprisonment under Section 323 I.P.C is confirmed. However, the sentence of life imprisonment under Section 5(l) read with Section 6 of the POCSO Act alone is set aside and modified to ten years rigorous imprisonment. The sentences imposed on the appellant / accused shall run concurrently.

[N.A.V.J.,] & [P.B.B.J.,]

09.06.2026

Internet : Yes

Index:Yes/No

Neutral Citation:Yes/No

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TO
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1. The Special Court for Exclusive Trial of Cases
under POCSO Act,
Tuticorin, Tuticorin District
2. The Inspector of Police,
All Women Police Station,
Pudukottai,
Thattaparai Police Station
Tuticorin District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Superintendent of Police,
Central Prison,
Palayamkottai,
Tirunelveli.



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