



CRL.A.(MD).No.820 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2026

CORAM

**THE HONOURABLE MR JUSTICE G.K.ILANTHIRAIYAN
AND
THE HONOURABLE MS JUSTICE R.POORNIMA**

Crl.A(MD)No.820 of 2022

Dharmadurai

: Appellant/Sole Accused

Vs.

**State Represented by
The Inspector of Police,
All Women Police Station,
Thirumangalam,
Madurai District.
(Crime No.81 of 2017)**

: Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, to call for the entire records pertaining to the judgement delivered by the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, in Special SC No.67 of 2018, dated 25/04/2022 and to set aside the same and consequently to acquit the appellant.



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For Appellant : Mr.R.Anand
For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

JUDGMENT

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

This Criminal Appeal is filed against the judgment of conviction and sentence passed by the Sessions Judge, Principal Special Court for POCSO Act cases, Madurai, in Special S.C.No.67 of 2018, dated 25.04.2022 and consequently to acquit the appellant.

2. The case of the prosecution is that the accused and the minor victim girl belonged to the same village. The accused used to talk to her frequently, propose his love, and assured her that he would marry her. On 14.01.2017 at about 07.00 p.m., the accused came and assured that he would marry her and took her to the east street of Muniyandi's dilapidated bathroom and committed penetrative sexual assault. Thereafter, he also used to follow her and assured that he would marry and also committed repeated



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penetrative sexual assault. She did not disclose the occurrences to her mother. Subsequently, she had developed stomach pain and she was taken to Government Hospital, Thiruparankundram, where it was found that she was six months pregnant. Thereafter, the mother and maternal aunt inquired her and only then did she disclose the occurrence. Thereafter, a complaint was lodged in this regard.

3. The Complaint (Ex.P1) was received by PW15, Tmt.Meena, Inspector of Police. On receipt of the complaint, she registered the FIR in Crime No.81 of 2017 under Sections 5(l) and 6 of the POCSO Act against the accused under Ex.P8 and prepared the first information report. The original FIR was forwarded to the Mahalir Court and copies were sent to the higher officials concerned. Thereafter, she took up the case for investigation. She proceeded to the place of occurrence, prepared the observation mahazar (Ex.P9) and rough sketch (Ex.P4) examined the minor victim girl and other witnesses and recorded their statements. On the same day, she arrested the accused at 13.30 hours and sent him



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for remand. She also sent the victim girl for medical examination through a woman constable Rameshwari. Thereafter, she forwarded a requisition to the Chief Judicial Magistrate to record the statement of the victim girl under Section 164 Cr.P.C, under Ex.P10. On 19.08.2017, the Judicial Magistrate No.4, Madurai, recorded her statement. Thereafter, the accused was sent for medical examination under Ex.P11. He was examined, on 19.09.2017 and the medical report of the accused was marked as Ex.P12. On 22.10.2017, the minor victim girl was delivered a female baby. On 01.02.2018, she sent a requisition to the Mahila Court requesting that a DNA test be conducted under Ex.P13. She also filed an FTA Card for a DNA Test, on 02.02.2018. Blood samples were collected from the accused and the victim and the child born to the victim's girl and the same was sent to the Government Rajaji Medical College Hospital, Madurai for a DNA test and received a DNA report (Ex.P7). Thereafter, she examined necessary witnesses and recorded their statements and filed a final report, on 21.03.2018 under Section 5(l) and 6 of the POCSO Act.



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4. After receipt of the records, the Trial Court took cognizance of the case in Special SC No.67 of 2018 and issued a 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. Thereafter, the Trial Court framed the charges against the accused under Sections 5(l) r/w 5(j)(ii) r/w 6 of the POCSO Act, 2012. The charges were read over and explained to the accused. The accused denied the charges and claimed to be tried. Therefore, the case was posted for trial.

5. On the side of the prosecution, 16 witnesses were examined as P.W.1 to P.W.16 and marked 16 documents as Exs.P1 to P16. On the side of the accused, neither oral nor documentary evidence was adduced. Court Proceedings of 164 Cr.P.C Statement was marked as Ex.C1.

6. After hearing both sides and on perusing the records both oral and documentary, the Trial Court found the accused



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guilty of the offences under Section 5(l), 5(j)(ii) of POCSO Act, 2012, convicted and sentenced to undergo life imprisonment and imposed a fine of Rs.10,000/- and compensation of Rs.50,000/-, in default to undergo one year RI. Against that, the present appeal is filed by the appellant.

7. The learned counsel for the appellant argued the case on the following grounds:-

The age of the victim was not proved during the time of the alleged occurrence that she was a minor. The certificate, which has been obtained from the Pasumalai School, where the minor victim girl was studying shows that the victim girl underwent her schooling at Peraiyur Government School and her age has not been satisfactorily established from the school records. According to the defence, she attained 18 years and the prosecution failed to produce the age certificate of the victim as per the law. The Trial Court ought to have acquitted the accused since the medical records with regard to the DNA test cannot be given weightage in view of the reason



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that the procedures which are contemplated for testing the DNA through swaps have not been properly followed. The Doctor, who treated the victim, admitted that there was no internal injury to the victim while examining her and it was not proved that she was forcibly taken and sexually abused. Further, the acquiescence of the victim girl that she was repeatedly compelled for intercourse, was not proved and therefore, the prosecution has failed to prove the case beyond a reasonable doubt and prayed for allowing the appeal by acquitting the appellant of the charges levelled against him.

8. Per contra, the learned Additional Public Prosecutor appearing for the respondent Police submitted that the victim girl was subjected to sexual harassment at the hands of the accused on several occasions and subsequently, she got pregnant and she also delivered a female child. Subsequently, a DNA test, was conducted, and in the report, it is confirmed that the accused is the biological father of the female child. At the time of the occurrence, the victim was only 13 years old. The age of the girl was also proved through



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proper documentary evidence. It is established that she had not completed 18 years at the time of the occurrence. Considering these aspects, the Trial Court has rightly convicted the accused which does not warrant any interference of this Court and prays for dismissal of the appeal.

9. Heard both sides and perused the materials available on record.

10. In this case, it is admitted that the victim and the accused had love affairs. The complaint Ex.P1 registered on 31.7.2017. As per the prosecution, the date of birth of the victim girl is 14.1.2017. Ex.P3 is the transfer certificate issued by the headmistress of the school in which she was studying. Ex.P15 is a record sheet relating to the victim girl where her date of birth was mentioned as 16.4.2003. Further, the Aadhaar card, produced before the court also shows the year of birth 2003. The headmistress of the school issued the transfer certificate which was examined as



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PW 16, and she supported the case of the prosecution. The appellant disputed the birth certificate and contended that the victim girl had completed 17 years at the time of the occurrence however, this contention was not substantiated by any evidence. On the contrary, the prosecution has established through proper records that the victim was only, 13 years old. Therefore, she was a minor at the time of the occurrence.

11. The complaint during the chief examination has stated that the accused committed a sexual offence promising that he would marry her. During the trial, she stated that the accused committed the sexual offence under the influence of alcohol and under compulsion. Further stated that the accused threatened that if she revealed the same to anyone, he would not marry her. She also stated that the accused committed the offence twice and therefore subsequently, she got pregnant.

12. Her statement was recorded by the jurisdictional



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magistrate under section 164 Cr.Pc, she stated that the accused forcibly taken her and her to sexual abuse. There are some minor contradictions in her evidence, however, they do not affect the core of the prosecution's case.

13. Subsequently, the victim girl, became pregnant and was examined by the Doctor. Thereafter, it came to light that she gave birth to a female child. During the course of the investigation, the Investigating Officer issued a requisition for conducting a DNA test to establish the paternity of the child. The same was spoken by PW12-Dr.Alageshwari, who stated that after receipt of the requisition letter for DNA (FTA) comparison, the same was handed over to the Doctor for the DNA test. The DNA test report (Ex.P7) was issued by the Deputy Director & Asst. Chemical Examiner to Government Regional Forensic Science Lab, Madurai, dated 09.03.2018. The relevant portion of the DNA report issued by the Doctor is extracted and produced under:-

“REPORT:-



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The DNA extract from each of the above blood samples was typed using the PCR amplified STR technique for 15 STR loci after taking due care for the integrity of each sample.

The results of the DNA typing for each of the above samples are shown in the enclosed annexures I to III. A comprehensive analysis of the test results and the interpretations thereof is given in annexure IV.

From the comprehensive analysis of the test results as shown in annexure IV, the alleged father xxxx is not excluded from the paternity of the female child. xxxx under any of the 15 STR loci test. Hence, the cumulative probability of paternity of xxxx for being the father of the female child, xxxx and the cumulative chance of exclusion of any random man from the paternity of the female child, xxxx were computed.

(i) The cumulative probability of paternity of Dharmadurai for being the father of the female child, xxxx is found to be 99.9999%.

(ii) the cumulative chance of exclusion of any random man from the paternity of the female child, xxxx is found to be 99.999999999999%.



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Conclusion:

From the DNA typing results of the above blood samples, it is found that in the absence of identical twins Mr.Dharmadurai is the biological father of the female child."

14. It is to be noted that the above DNA report was not disputed by the accused. The testimony of the victim girl is duly corroborated by the medical evidence and the age of the victim has also been proved through Exs.P15 and P16.

15. In this case, the accused was sentenced to imprisonment for Life. The learned counsel for the appellant prayed that, at the time of the occurrence, the accused was aged about 27 years and considering the young age and family background, prayed that this Court take a lenient view in the matter.

16. It is to be noted that the offence committed by the accused is before the amendment of section 5(l), 5(j)(ii) of the



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POCSO Act, 2012. Though the victim girl admitted that the relationship was consensual, was admittedly a minor at the time of the occurrence, and therefore, the consensual sexual relationship between the accused and the victim girl is unacceptable for any legal application. Even simple consent by a minor has no value in the eyes of the law.

17. However, considering the age of the accused and that he has no previous antecedent to his credit, this Court decided to take a lenient view and accordingly, reduced the sentence from Life Imprisonment to ten years rigorous imprisonment and liable to pay a fine of Rs.10,000/-.

18. In the Result, this Criminal Appeal is **partly allowed** and accordingly, the accused is convicted and sentenced to undergo **10 years of rigorous imprisonment** and to pay a fine of Rs.10,000/- and compensation of Rs.50,000/-, in default to undergo one year RI for the offence under Section 5(l), 5(J) (ii) of POCSO Act. The period



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of detention already undergone by the appellant is ordered to be set
off under Section 428 Cr.P.C.

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(G.K.I., J) (R.P., J)
02.02.2026

Index :Yes/No
Internet :Yes/No

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To,
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- 1.The Sessions Judge,
Principal Special Court for Exclusive
Trial of Cases under POCSO Act,
Madurai.
- 2.The Inspector of Police,
All Women Police Station,
Thirumangalam,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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**G.K.ILANTHIRAIYAN, J.
AND
R.POORNIMA, J.**

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