

CRL.A.(MD)No.1032 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON: 24.08.2026

DELIVERED ON: 23.09.2026

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE B.MURUGESAN

CRL A(MD) NO. 1032 of 2024

{CNR: HCMD011227972024}



Case QR

... Appellant

Vs.

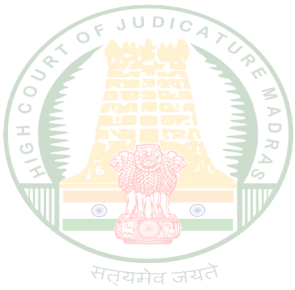
The Inspector of Police,
All Women Police Station,
Thoothukudi,
Thoothukudi District.
(Crime No.36 of 2020)

... Respondent

PRAYER: Criminal Appeal filed under Section 415(2) BNSS and Section 374(2) Cr.P.C., to call for the records and allow this appeal and set aside the judgment and conviction dated 13.12.2023 passed by the Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi, Thoothukudi District in Spl.S.C.No.14 of 2021 and acquit the appellant.

For Appellant : Mr.K.Prabhu,
for Mr.N.Pragalathan

For Respondent : Mr.G.Karuppasamy Pandiyan,
Counsel for the State of TN(Crl.Side)



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JUDGMENT

[Judgment of the Court was made by **B.MURUGESAN, J.**]

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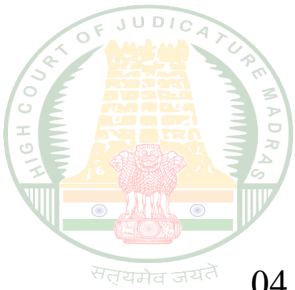
Assailing the judgment dated 13.12.2023 of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi, hereinafter referred to as 'the trial court', in Spl SC No.14/2021, convicting the appellant/sole accused and sentencing him for the offences punishable under S. 5(l), S.5(m) and S.5(n) r/w S.6 POCSO Act,2012, and S.506(1) IPC, the appellant/sole accused has preferred this criminal appeal.

2.Conviction and sentences would read as under:

	Conviction Under	Imprisonment	Fine and Default Sentence
1	S.5(l), S.5(m) and S.5(n) r/w S.6 POCSO Act, 2012,	imprisonment for life which shall mean imprisonment for the remainder of the natural life of the appellant/ accused	Rs.10,000/- i/d simple imprisonment for one year
2	S.506(1) IPC	rigorous imprisonment for one year	-

Sentences have been ordered to run concurrently, and the accused has been given the benefit of set off under S.428 Cr PC.

03. Victim is 10 years old girl child, hereafter referred to as 'the child victim', and her step father is 'the accused'.



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04. Case of the prosecution would run as under:

(a) Owing to a family dispute, the mother of the child victim got separated from the biological father of the child victim, and married the accused. Therefore, the accused is the step father of the child victim.

(b) On 01.10.2020 at about 9.00 am, when the mother of the child victim had gone to work as a housemaid, the child victim and the accused were at the house. While the child victim along with her first cousin, Subash, was eating food at the house, the accused asked Subash to go and search Ajin. Accordingly, Subash went away to search Ajin. Immediately thereafter, the accused took the child victim to a room inside the house, undressed the child victim, made her lay on the floor, squeezed her chest, placed his penis between her thighs and inserted his finger into her vagina. At this juncture, Subash returned to the house and knocked the door. As the door was locked inside and as there was no response, Subash looked inside the room through the window and found the accused lying naked on the child victim. Subash rushed to the house of one Selvi, a neighbour, and informed her of the occurrence he witnessed through the window. On the information given by Selvi over phone, the mother of the child victim rushed to the house and enquired the child victim who narrated the occurrence to her mother, Selvi, Thommai, and Mariammal. During such enquiry, the child victim informed further that the accused, earlier



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on three occasions, had committed such sexual assault on her and he had also threatened to kill her and her mother if she disclosed the occurrence to anyone.

On the same day, the mother of the child victim went to AWPS, Thoothukudi, and lodged a complaint, Ex.P2.

(c) Pursuant to the registration of FIR in Cr No.36/2020 on the file of AWPS, Thoothukudi, based on such complaint, Ex.P2, IO took the case for investigation on 01.10.2020, inspected the house of the accused being the place of occurrence and prepared the observation mahazar and rough sketch in the presence of the witnesses, Thommai and Kaliraj, and she examined the mother of the child victim, the child victim, Subash @ SubashPandian, Thommai, Kaliraj and Latha SI and recorded their statements. On 02.10.2020, IO, through Constable Mahalakshmi, caused the child victim examined at Thoothukudi Govt Medical College Hospital. Then, IO examined the witnesses, Mariammal and Selvi @ Selvinus.

(d) On 07.10.2020 at 5.00 pm, IO (in charge) arrested the accused near Sona Mahal, Thalamuthu Nagar bazaar, Thoothukudi, and caused the accused remanded to judicial custody. On 09.10.2020, IO caused the statement of the child victim recorded under S.164(5) CrPC. On 21.10.2020, IO caused the statement of Subash recorded under S.164(5) CrPC. On 17.11.2020, IO examined Cruz Mahendran, Headmaster, who issued a report as to the date of



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birth of the child victim, and recorded his statement. On 26.11.2020, IO, through police personnel, Sornabalan and Muthukrishnan, caused the accused examined at Thoothukudi Govt Medical College Hospital. On 05.01.2021, IO examined Subash and recorded his further statement. IO examined the Constable Mahalakshmi, who took the forensic materials taken from the child victim to RFSL, Thirunelveli, and recorded her statement. On 20.01.2021, IO examined Dr.Vishnupriya, who examined the child victim, and Dr.Sudalaimuthu, who examined the accused, and recorded their statements. On 20.01.2021, IO filed section alteration report. After such investigation, IO filed the final report against the accused for the offences punishable under S.5(l), S. 5(m) and S.5(n) r/w S.6, and S.9(l), S.9(m), and S.9(n) r/w S.10 POCSO Act, 2012, and S.506(2) IPC.

05. On appearance of the accused before the trial court, he was furnished free of cost with the copies of the records relied on by the prosecution, as required under S.207 CrPC.

06. Under S.25(2) POCSO Act, 2012, the child victim was also furnished free of cost with the copies of the records relied on by the prosecution.

07. Thereupon, the learned Public Prosecutor opened the case before the trial court, as under S.226 CrPC, and the learned counsel for the accused was



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also heard. On due consideration thereof, charges were framed by the trial court against the accused under S.5(l), S.5(m) and S.5(n) r/w S.6 POCSO Act, 2012, and S.506(1) IPC, and the same were read over and explained to him by trial court, as under S.228 CrPC.

08. Accordingly, the accused was questioned by the trial court as to the charges framed against him, and he denied the charges as not true, pleaded not guilty and claimed to be tried.

09. Pursuant thereto, trial was ordered, and the prosecution produced evidence in support of its case, and therefore, the prosecution, before the trial court, examined PW1 to PW15, and marked Ex.P1 to Ex.P14 through the competent witnesses.

10. Details of the witnesses and the exhibits on the side of the prosecution before the trial court are as under:

(1)PW1 is the child victim who would speak about the occurrence, the role of Subash, Selvi, and her mother, the medical examination she underwent, the recording of her statement under S.164(5) CrPC and her examination by IO. Ex.P1 is the statement of PW1 recorded under S.164(5) CrPC.

(2) PW2 is the mother of the child victim who would speak about her marriage with the accused, her visit to the house on the information given by



Selvi, her enquiry with the child victim, the lodging of complaint, Ex.P2, and the medical examination of PW1.

(3) PW3 is Subash @ Subash Pandian, the first cousin of PW1, who would speak about the events on the date of occurrence and he having witnessed the act of the accused through the window of the house.

(4) PW4 is Mariammal, the mother of Subash and the sister of PW2, who would speak of the events after PW2 reached the house.

(5) PW5 is Selvi @ Selvinus, who would speak about her role after PW3 informed her of the occurrence and the events after PW2 reached the house.

(6) PW6 is Thommai who would speak of the preparation of observation mahazar, Ex.P3, and the rough sketch.

(7) PW7 is Dr.Sudalaimuthu who conducted the potency test on the accused and his report is Ex.P4.

(8) PW8 is Constable Sornabalan and PW9 is Constable Muthukrishnan, who took the accused for potency test, and the passport thereof is Ex.P5.

(9) PW10 is Constable Mahalakshmi who took the child victim for medical examination at Thoothukudi Govt Medical College Hospital, and the passport thereof is Ex.P6.

(10) PW11 is Dr.Vishnu Priya who would speak of the medical examination of the child victim, and Ex.P7 is the AR copy of the child victim,



and Ex.P8 is her medical report.

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(11) PW12 is Cruz Mahendran, Headmaster, who issued a report as to the date of birth of the child victim, and his report is Ex.P9.

(12) PW13 is Latha, SI, who would speak of the registration of FIR, Ex.P10, on the complaint, Ex.P2, given by PW2.

(13) PW14 is Mrs.Prabavathy, IO (in charge), who would speak of the arrest of the accused.

(14) PW15 is Mrs.Vanitha, IO, who would speak about the investigation in detail and the consequent final report. Ex.P12, the rough sketch, Ex.P13, the chemical report issued by RFSL, Thiruneveli, and Ex.P14, the section alteration report, were marked through PW15.

11. While questioning under S.313 CrPC in respect of the incriminating materials appearing against him in the evidence of the prosecution, the accused answered before the trial court that all such evidence is false and that this is a false case.

12. On the other hand, there is no evidence, either oral or documentary, on the side of the accused.

13. Upon such a full fledged trial, the trial court has found the accused guilty and accordingly, the trial court has convicted the accused for the offences



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under S.5(l), S.5(m) and S.5(n) r/w S.6 POCSO Act, 2012, and S.506(1) IPC,

and sentenced him as aforesaid.

14. Assailing such conviction and sentences of the trial court, the accused has preferred this criminal appeal before us.

15. We have heard the learned counsel for the appellant/accused and the learned counsel for the State (Criminal Side), and we have also perused the records carefully.

16. Learned counsel appearing for the appellant/accused would submit that since no injury of whatsoever was found in or around the private part of the child victim, and since no spermatozoa was detected in or around the private part of the child victim, as proved by the medical evidence, Ex.P7, the AR copy of the child victim, and Ex.P8, the medico legal examination report of the child victim, the case of penetrative sexual assault would obviously fail, that the testimony of PW1, the child victim, and the testimony of PW3 who is portrayed to be the occurrence witness, cannot be relied on by the prosecution inasmuch as they are found tutored, that the evidence of PW1 to PW5 would contradict each other in all material particulars, that since the foundational facts for the offence are not proved, the statutory presumption under S.29 POCSO Act,



2012, would not arise driving the accused to prove the contrary and that therefore, a judgment reversing the finding and sentences of the trial court, and acquitting the accused of all the charges leveled against him needs to be passed.

17. Per contra, the learned counsel for the State (Criminal Side) would submit that the testimony per se of the child victim, PW1, being credible and trustworthy would bring home the offence, that mere absence of injury in or around the private part of the child victim or mere absence of spermatozoa would not rescue the accused from the penal consequences because a single penetration per se, without causing any injury to the child victim or without resulting in ejaculation, would be sufficient to bring home the offence of penetrative sexual assault, that this is a case based on eye witness, PW3, whose evidence remains incontrovertible, that the evidence of PW1 to PW5 being consistent from the very inception would corroborate each other in all material particulars, that since the accused is the step father of the child victim having committed continual penetrative sexual assault on the child victim aged about 10 years, the offence committed by the accused is nothing but the offence of aggravated penetrative sexual assault as under S.5(l), S.5(m) and S.5(n) POCSO Act, 2012, punishable under S.6 POCSO Act, 2012, as amended, that since the prosecution has established the foundational facts for the offence of aggravated



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penetrative sexual assault, the prosecution would enjoy the presumption as under S.29 POCSO Act, 2012, that there is nothing on the side of the accused to rebut such presumption and that therefore, the criminal appeal filed by the accused deserves for dismissal.

18. Point for determination in this appeal is whether the trial court is right in finding the appellant/accused guilty and thereby convicting and sentencing him under S.5(l), S.5(m) and S.5(n) r/w S.6 POCSO Act, 2012, and S.506(1) IPC?

19. Here is a case where the victim is claimed to be a child below the age of 18 years as under S.2(1)(d) POCSO Act, 2012. Ex.P9, the report of PW12, the Headmaster, Municipal Elementary School, Samuel Puram, Thoothukudi, where the child victim was studying V Standard, would reveal that the date of birth of the child victim is 31.10.2010. 01.10.2020 is the date when the offence is claimed to have taken place when her age, therefore, was 9 years and 11 months. It is thus clear that the victim, during the occurrence, had been a child below the age of 18 years as under S.2(1)(d) POCSO Act, 2012.

20. Taking hold of the absence of injury in or around the private part of the child victim, the absence of spermatozoa in or around the private part of the child victim and the intact hymen of the child victim, the learned counsel for the



accused would contend predominantly that such medical findings in this case

would go to the root of the case of penetrative sexual assault, tarnishing the case of the prosecution. Of course, it is true that PW11, the doctor, would speak of the absence of injury in or around the private part of the child victim, the absence of spermatozoa in or around the private part of the child victim and the intact hymen of the child victim, as claimed by the accused. Therefore, now the question that arises inevitably is whether the absence of such physically demonstrable effects on the body of the child victim would affect the case of penetrative sexual assault?

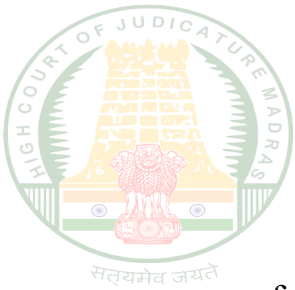
21. S.3 POCSO Act, 2012, defines ‘penetrative sexual assault’ as under:

3. Penetrative sexual assault.—A person is said to commit “penetrative sexual assault” if—

(a) he penetrates his penis, to *any extent*, into the vagina, mouth, urethra or anus of a child or makes the child to do so with him or any other person; or

(b) he inserts, to *any extent*, *any object or a part of the body, not being the penis*, into the vagina, the urethra or anus of the child or makes the child to do so with him or any other person; or

(c) he manipulates any part of the body of the child so as to cause penetration into the vagina, urethra, anus or any part of body of the child or makes the child to do so with him or any other person; or



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(d) he applies his mouth to the penis, vagina, anus, urethra of the child or makes the child to do so to such person or any other person.

(italics supplied by this court)

Even a cursory look on the above definition would make it clear that it concerns only the conduct of the accused but not the harm, be it physical or mental, caused to the child victim, that while couching the above definition, injury much less proof of injury, be it physical or mental, caused to the child victim has been consciously avoided, that a single penetration per se of penis, without causing any injury to the child victim or without resulting in ejaculation, would be sufficient to bring home the offence, that a single insertion per se of any object or part of the body, without causing any injury to the child victim, would be sufficient to bring home the offence and that therefore, any emphasis on the proof of physically demonstrable effects on the body of the child victim, being de hors the definition of 'penetrative sexual assault' under S.3 POCSO Act, 2012, would amount to misinterpretation of the statute.

22. In this connection, it would be appropriate to refer to the decision in *Dinesh Kumar Jaldhari V State of Chhattishgarh (2025 INSC 1317)* where the Hon'ble Apex Court, in a case under POCSO Act, has weighed the medical evidence as under:

'5.2 It is well settled that the medical evidence will take

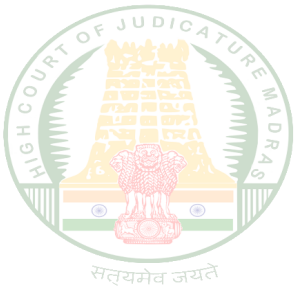


a backseat and even if do not corroborate with the ocular evidence, where the ocular evidence is consistent and cogent, the later would be allowed to prevail.’

23. Therefore, having regard to the definition of ‘penetrative sexual assault’ under S.3 POCSO Act, 2012, and the aforesaid decision, we have no hesitation to hold that the medical evidence is only supportive but not determinative and that the absence of observable genital injury or any other related injury on the body of the child victim, or the absence of spermatozoa of the accused on the dress or body of the child victim, or the absence of torn/damaged hymen of the child victim, or the absence of any other physically demonstrable effects of the crime would not lead to an automatic conclusion of absence of sexual abuse or sexual assault.

24. What would take precedence over the medical evidence is, as discussed earlier, the consistent and cogent ocular evidence, be it the evidence of the child victim or the evidence of any other eye witness.

25. Inasmuch as the medical/forensic evidence in this case on hand does not support the case of the prosecution, the case of the prosecution does predominantly hinge upon the evidence of PW1, the child victim, and of PW3, the eye witness.



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26. While upholding the probative value of the testimony of a child victim, the Hon'ble Apex Court, in ***Bhanei Prasad @ Raju V State of Himachal Pradesh (2025 INSC 934)***, has held as under:

‘6. It is now well settled that the testimony of a child victim, if found credible and trustworthy, requires no corroboration.....’

27. Before delving deep, it would be appropriate to refer to S.5(l), S.5(m) and S.5(n) POCSO Act, 2012, for the better appreciation of the charges framed against the accused.

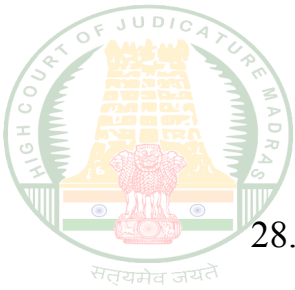
5. Aggravated penetrative sexual assault.—

.....

(l) whoever commits penetrative sexual assault on the child more than once or repeatedly; or

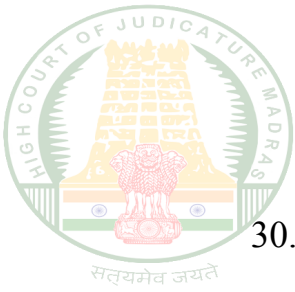
(m) whoever commits penetrative sexual assault on a child below twelve years; or

(n) whoever being a relative of the child through blood or adoption or marriage or guardianship or in foster care or having a domestic relationship with a parent of the child or who is living in the same or shared household with the child, commits penetrative sexual assault on such child;
is said to commit aggravated penetrative sexual assault.



28. What comes first for our consideration is the evidence/statement of the child victim, PW1. In order to rely on the child victim as a 'sterling witness', her evidence/statement, except minor inconsistencies, must be consistent from the beginning to the end, winning the confidence of the judicial mind, as held in *Nirmal Premkumar and Another V State rep by Inspector (2024 INSC 193)*.

29. According to the prosecution, the earliest version of the child victim is her statement about the occurrence to her mother, PW2, who is said to have rushed to the house on the information given by Selvi @ Selvinus over phone. PW2, the mother of the victim, would state in her complaint, Ex.P2 dated 01.10.2020, that during her enquiry with the child victim at the house soon after the occurrence, the child victim stated/replied that as soon as Subash went away to search Ajin, the accused took her to a room inside the house, undressed her, made her lay on the floor, squeezed her chest, placed his penis between her thighs and inserted his finger into her vagina, that at this juncture, Subash returned to the house and knocked the door, that as the door was locked inside and as there was no response, Subash looked into the room through the window, that the accused, earlier on three occasions, had committed such sexual assault on her and that he had also threatened to kill her and her mother if she disclosed the occurrence to anyone.



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30. When examined as PW2, the mother of the victim has also given evidence inter alia disclosing the very same statement of the child victim about the occurrence as disclosed in her complaint, Ex.P2.

31. Ex.P7 is the AR copy dated 02.10.2020 of the child victim where too the child victim has disclosed to the doctor the same details of penetrative sexual assault she suffered, that too, by indicating his step father (with name) as the perpetrator.

32. Ex.P1 is the statement of the child victim recorded by the Judicial Magistrate IV, Thoothukudi, under S.164(5) CrPC. Here too, the child victim has narrated the occurrence in the same way as narrated to her mother and the doctor.

33. In her evidence as PW1, the child victim, would narrate the occurrence that as soon as Subash went away to search Ajin, the accused took her to a room inside the house, undressed her, made her lay on the floor, squeezed her chest, placed his penis between her thighs and inserted his finger into her vagina, that at this juncture, Subash returned to the house and knocked the door, that as the door was locked inside and as there was no response, Subash looked at the room through the window, that the accused, earlier on



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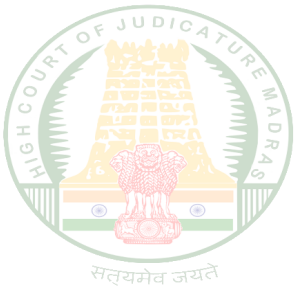
three occasions, had committed such sexual assault on her and that he had also

threatened to kill her and her mother if she disclosed the occurrence to anyone.

More pertinently, nothing contrary has been elicited during her cross examination.

34. Therefore, it is clear and evident from her statement before her mother, her statement before the doctor, her statement before the Judicial Magistrate and her evidence before the trial court that the evidence/statement of the child victim has been consistent from the beginning to the end, winning the confidence of the judicial mind and requiring no further corroboration.

35. In addition thereto, Subash @ Subash Pandian, PW3, who is projected as the eye witness, would state in his evidence that while he was eating food at the house of PW2, the accused asked him to go and search Ajin, that accordingly, he went away to search Ajin, that after a little while, he returned to the house and knocked the door, that as the door was locked inside and as there was no response, he looked at the room through the window and found the accused lying naked on the child victim and that he rushed to the house of Selvi and informed her of the occurrence he witnessed through the window. Nothing contrary has been elicited during his cross examination.



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36. PW5, Selvi @ Selvinus, would state in her evidence that on 01.10.2020 at about 9.30 am, PW3, Subash, rushed to her with a deep sense of unease and informed her that the accused was lying naked on the child victim.

37. PW2, the mother of the child victim, would further add in her evidence that owing to a family dispute, she got separated from the biological father of the child victim, and married the accused. Therefore, the accused is the step father of the child victim.

38. Therefore, what transpires from the above materials on record is (a) that the accused has committed penetrative sexual assault on the child victim more than once as under S.5(l) POCSO Act, 2012, (b) that the child victim, during the occurrence, was below the age of twelve years as under S.5(m) POCSO Act, 2012, and (c) that the accused is the step father of the child victim coming under S.5(n) POCSO Act, 2012.

39. Resultantly, we are of the firm view that the evidence of the child victim, PW1, and the evidence of PW3 would clinchingly prove that the accused being the step father of the child victim below the age of 12 years has



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committed the offence of aggravated penetrative sexual assault as under S.5(l),

S.5(m) and S.5(n) POCSO Act, 2012, punishable under S.6 POCSO Act, 2012.

40. As recently held by the Apex Court in ***Debraj Dutta V State of West Bengal and another (2026 LiveLaw (SC) 401)***, once the foundational facts are proved by unimpeachable evidence, the statutory presumption under S.29 POCSO Act, 2012, would rule the field. S.29 POCSO Act, 2012, would read as under:

29. Presumption as to certain offences.—Where a person is prosecuted for committing or abetting or attempting to commit any offence under sections 3, 5, 7 and section 9 of this Act, the Special Court *shall presume*, that such person has committed or abetted or attempted to commit the offence, as the case may be *unless the contrary is proved*.

(italics supplied by this court)

It is therefore clear from the phrase ‘unless the contrary is proved’ that the statutory presumption under S.29 POCSO Act, 2012, is, of course, rebuttable and that the accused is at liberty to rebut such presumption even by the preponderance of probabilities.

41. In a bid to prove the contrary, the accused has projected a case before the trial court by way of suggestions that since the accused condemned Subash,



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PW3, for his 'misconduct' with the child victim, this false case was foisted against the accused. Except such suggestions to that effect, there is nothing on record to show such misconduct of Subash as suggested.

42. Yet, the learned counsel for the accused would raise two contentions before us, one, that PW1, the child victim, is found tutored and the other, that the evidence of PW1 to PW5 would contradict each other.

(a) As discussed earlier, the evidence/statement of the child victim has been consistent from the beginning to the end, and the evidence of PW1 stands corroborated by the evidence of PW3, the eye witness. In other words, the evidence of PW1 is found credible and trustworthy, leaving no room to raise the defence of 'being tutored'. That apart, PW1, for a suggestion to that effect, has answered that it is false to suggest that she has been tutored by the police.

(b) Of the five witnesses, PW1 to PW5, PW1 is the child victim and PW3 is the eye/occurrence witness. PW2, PW4 and PW5 are admittedly the post occurrence witnesses. In legal parlance, the post occurrence witnesses cannot be expected to corroborate the exact details of the actual commission of crime given by a victim or an eye witness. Therefore, the contention that the evidence of PW1 to PW5 would contradict each other would become otiose.

43. Inasmuch as the accused has thus failed to prove 'any of the contrary'



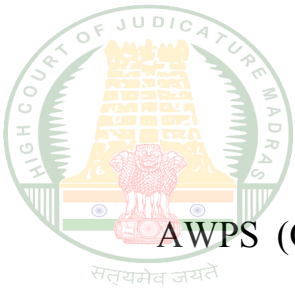
in the case of the prosecution even by the preponderance of probabilities, we have no other option except to hold that the statutory presumption under S.29 POCSO Act, 2012, still stands and remains firm, supporting the case of the prosecution.

44. During his argument, the learned counsel for the accused has relied on the decisions in Saravanan V State by Inspector of Police ((2026) 3 MLJ (CrI) 284), in A.Jeganathan V State of Tamil Nadu (2024 (1) MWN (Cr.) 509 (DB)) and in Gurusamy V The State rep by Inspector of Police, Rajapalayam AWPS (CrI A (MD) No.837/2023/13.08.2026) and thereby prayed for either reversal of conviction or lesser punishment.

(a) Saravanan V State by Inspector of Police ((2026) 3 MLJ (CrI) 284 decided by one of us (A.D.Jagadish Chandira J)) is a case where the conviction under S.6 POCSO Act, 2012, has been reversed on the ground that the child victim is found tutored and her version is found riddled with material contradictions.

(b) A.Jeganathan V State of Tamil Nadu (2024 (1) MWN (Cr.) 509 (DB)) is a case where the conviction for aggravated penetrative sexual assault has been modified to conviction for sexual assault simpliciter on the ground that there is no evidence for aggravated penetrative sexual assault.

(c) Gurusamy V The State rep by Inspector of Police, Rajapalayam



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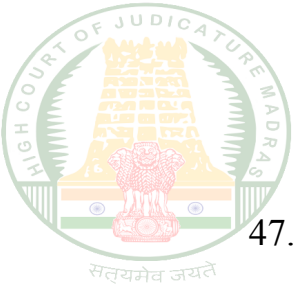
AWPS (CrI A (MD) No.837/2023/13.08.2026 decided by us) is also a case

where the conviction for aggravated penetrative sexual assault has been modified to conviction for aggravated sexual assault on the ground that there is no evidence for penetrative sexual assault.

Per contra, here is a case where, as held earlier, the consistent and cogent evidence of the child victim, PW1, as corroborated by the eye/occurrence witness, PW2, would prove that the accused has committed the aggravated penetrative sexual assault on the child victim. Therefore, the above decisions being factually distinguishable would not come to rescue the accused.

45. Coming to the offence punishable under S.506(1) IPC, PW1, the child victim, would state in her evidence and in her statement recorded under S. 164(5) CrPC that the accused threatened to kill her and her mother. It is pertinent to note that the accused, both in the trial court and in this appeal, has obviously confined his defence only to the offence under POCSO Act.

46. Ergo, we hold that the trial court is right in finding the appellant/ accused guilty and thereby convicting and sentencing him under S.5(l), S.5(m) and S.5(n) r/w S.6 POCSO Act, 2012, and S.506(1) IPC.

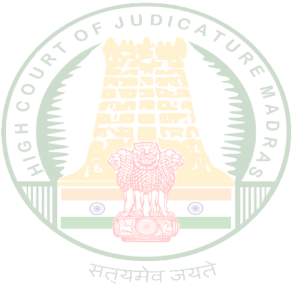


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47. In fine, this criminal appeal is dismissed, maintaining the finding and sentence of the trial court.

[A.D.J.C., J.] [B.M., J.]
23.09.2026

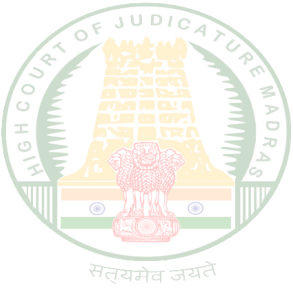
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- To
- 1.The Special Court for Exclusive Trial of Cases under POCSO Act,
Thoothukudi, Thoothukudi District
 - 2.The Inspector of Police,
All Women Police Station,
Thoothukudi,
Thoothukudi District.
 - 3.The Superintendent,
Central Prison,
Palayamkottai.
 - 4.The Government Advocate(Crl.Side),
Madurai Bench of Madras High Court,
Madurai.



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CRL.A.(MD)No.1032 of 2024

A.D.JAGADISH CHANDIRA, J.
AND
B.MURUGESAN, J.

gns

Pre-Delivery Judgment made in
CRL.A.(MD)No.1032 of 2024

23.09.2026