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CrI.A.No.227 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.11.2025
PRONOUNCED ON : 07.01.2026

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.227 of 2021

Senthil @ Senthilkumar

... Appellant

Vs.

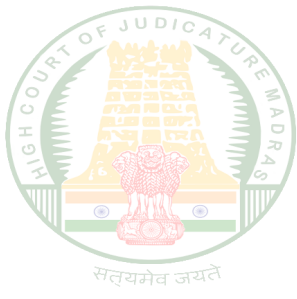
1.State rep. by
Deputy Superintendent of Police,
Tiruchengode Sub Division,
Namakkal District.

2.State rep. by
The Inspector of Police,
Molasi Police Station,
Namakkal District.
(Crime No.134 of 2013)

3.Chellammal

... Respondents

Prayer: Criminal Appeal filed under Section 374(2) of Cr.P.C., to call for the records and set aside the conviction imposed in the judgment dated 03.11.2020 made in S.C.No.66 of 2015 on the file of the Special Court for SC/ST (POA) Act Cases, Namakkal.



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For Appellant : Mr.J.Ranjith Kumar
For R1 & R2 : Ms.J.R.Archana
Government Advocate (Crl. Side)
For R3 : Mr.Vrindha
Legal Aid Counsel

JUDGMENT

This Criminal Appeal is filed to set aside the impugned judgment in S.C.No.66 of 2015 dated 03.11.2020 on the file of the learned Sessions Judge, Special Court for SC/ST (POA) Act Cases, Namakkal.

2.The appellant/accused in S.C.No.66 of 2015 was convicted by the Trial Court by judgment dated 03.11.2020 and sentenced him to undergo ten years rigorous imprisonment for the offence under Section 376(1) r/w. 511 IPC and to undergo two years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one month simple imprisonment for the offence under Section 451 IPC and the sentences to run concurrently.

3.The gist of the case is that the defacto complainant/PW1 was residing in a line house in Manakattar Thottam at Manakkadu, Palur Village and she belongs to Arunthathiyar Community listed under Scheduled Caste.



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The appellant/accused is a resident of Velliyampalayam and he belongs to

Vettuva Gounder Community listed under Most Backward Class. The

victim's husband working as a Driver in a Water Scheme and used to go to

work at night. Taking advantage of victim loneliness, the appellant/accused,

decided to exploit the victim sexually. On the intervening night of

05/06.09.2013 at about 1.00 a.m., when the victim was alone, the accused

forcibly entered the house of the victim, committed house trespass with an

intent to commit rape and forcibly had sexual intercourse against victim

wish without any concern, by gagging her mouth with his hands and also

intimidated her that she would be done away if she shouted or raised any

alarm. The appellant abused her by calling her caste name. The victim was

in a state of shock, kept to herself for a day and out of fear, she had not

immediately reacted. When her body pain became unbearable, she went to

the daughter-in-law/PW2 house and disclosed the act of the accused. PW2

took the victim to the Government Hospital, Tiruchengode where she was

given treatment, information sent to the respondent police from the Hospital.

PW10/Sub-Inspector of Police visited the Hospital, recorded the statement

of PW1/victim, who admitted the same and kept her left thumb impression.

Thereafter, FIR/Ex.P12 in Crime No.134 of 2013 registered. On the orders



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of the Superintendent of Police, the FIR was placed to PW11/Deputy

Superintendent of Police for further investigation. In the meanwhile, the

victim was referred to Government Hospital, Salem for further examination

and treatment. PW11 took up investigation. On 08.09.2013 at about 6:30

a.m., PW11 visited the scene of the occurrence, prepared observation

mahazar/Ex.P14 and rough sketch/Ex.P15 in presence of witnesses,

examined witnesses present at the scene of the occurrence and collected

inner garments, saree and blouse from the victim viz., MO1 to MO3, under

the cover of seizure mahazar/Ex.P16. The appellant/accused was arrested on

08.09.2013. PW9/Doctor examined the appellant/accused and issued a

Potency certificate/Ex.P11. PW8/Doctor attached to Government Hospital,

Salem further examined the victim and gave her opinion/Ex.P10. The

medical records/Ex.P6 to Ex.P9 marked in this case and the statements of

witnesses recorded. PW5/Deputy Tahsildar issued community certificate to

the accused which is marked as Ex.P4 confirming he belongs to Most

Backward Class and issued Ex.P5/community certificate to the victim,

confirming she belongs to Scheduled Caste community. On conclusion of

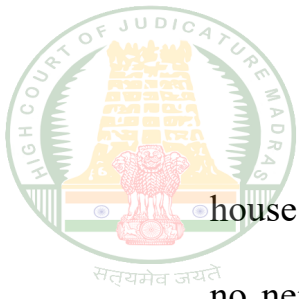
investigation, charge sheet filed. During the trial, PW1 to PW11 examined,

Ex.P1 to Ex.P19 marked and MO1 to MO3 produced on the side of



prosecution. On the side of defence, no witness examined and no documents marked. On conclusion of the trial, the Trial Court convicted the appellant and sentenced him as stated above. Against which, the present appeal filed.

4.The contention of the learned counsel for the appellant is that the appellant a politician, attached to a political party and had political rivalry with one Chinnasamy, under whom PW1/victim was employed. Due to the political rivalry, using PW1 the appellant falsely implicated in this case. Few months before the incident, the appellant met with an accident, he was unconscious and bedridden which is admitted by the victim. It is also admitted by the victim that the appellant was owning lands and people belonging to Scheduled caste community working in his fields and the appellant had no issues with them. The victim further admits that there was a village panchayat held in the Church and the appellant denied the incident. This explanation is given to get over the delay in lodging the complaint. According to the prosecution, the incident took place during the midnight and early hours between 05.09.2013 and 06.09.2013, but the complaint was given only on 07.09.2013. He would submit that PW1 as well as the Investigating officer admits that the victim was staying in an asbestos roofed



house and it was a row house, there are others residing in the same row and

no neighbors noticed or complained about the incident. The victim on the

next day went to her daughter-in-law's house at Velliyampalayam and

informed the incident which is highly artificial and defies normal human

conduct. PW7/Doctor examined the victim on 07.09.2013 at about 5:30 p.m.

The Doctor records that on the request of the Inspector of Police, in Crime

No.134 of 2013 the victim was examined to determine whether she was

subjected to rape or not, but in Ex.P1/complaint it is projected as though

PW10/Sub-Inspector of police went to the hospital where he recorded the

statement of the victim/PW1. Had the statement had been recorded in the

Hospital, then it should have been in the presence of PW7/Doctor and the

statement should have been attested by PW7. On the contrary, PW7 states

that at the request of the Police, she examined the victim. Hence, the

foundational fact becomes doubtful and shaky. He further submitted that

PW7 confirms that she noticed a simple injury in the private parts and issued

Ex.P8/Accident Register, further she collected pubic hair and sent it for

forensic examination. In the forensic report/Ex.P7, it is recorded that no

spermatozoa found. He further submitted that PW8/Doctor who examined

the victim given a report/Ex.P10, which is on the back side of Ex.P7 that



there could have been possibility of sexual assault, which is without medical reasoning. In Ex.P9/Accident Register, it is recorded abrasion over fourchette, other than that, there are no other injuries of any sort. PW7 admits that this type of injury is a natural occurrence and thus, ruling out that there was any forcible penetration. Further, there is doubt in the manner in which MO1 to MO3 seized. PW1's evidence is that MO1 to MO3 seized from her house. PW3, son of PW1 who is the witness for the seizure mahazar/EX.P16 who identified his signature in the seizure mahazar where it is recorded that the dress articles MO1 to MO3 collected on 08.09.2013 at about 11.00 a.m. in the Government Hospital, Tiruchengode. Hence, there are contradictions and serious doubt as to where MO1 to MO3 seized. Further in the forensic report/Ex.P6, it is seen that no semen detected in MO1 to MO3. In this case, PW11/Investigating Officer referring to Observation mahazar/Ex.P14 and rough sketch/Ex.P15 confirms that the victim was residing in a row house with asbestos sheets. There are totally five houses in the row and hence any sound or unusual movement made in one house can be felt and heard by the neighbors. In this case, none of the neighbors uttered anything about the incident. Ex.P10 is the opinion of PW8/Doctor, which is on the reverse side of Ex.P7/forensic report and



victim not examined clinically and hence this report is without any medical

reasoning. From the above, it is clear that the foundational fact becomes

shaky and doubtful. There is some political animosity against the appellant.

The Trial Court found that no rape committed but convicted the appellant for

attempt to rape and trespassing into the house of victim. In this case, PW1

admits that the door was locked from inside and there is no possibility to

open the door from outside. These vital facts not considered by the Trial

Court. Hence, prayed for acquittal.

5. In support of his contentions, the learned counsel for the appellant relied upon the decision of the Apex Court in the case of *Aman Kumar and another vs. State of Haryana* reported in (2004) 4 SCC 379, wherein it is held that the version of the victim cannot be accepted on its face value and the Court may search for evidence, direct or circumstantial, which would lend assurance to her testimony. He further relied upon the decision of the Apex Court in the case of *Krishna alias Krishnappa vs. State of Karnataka* reported in (2014) 15 SCC 596 and the decision of this Court in the case of *Pazhani vs. State rep. by the Inspector of Police* reported in 2019 SCC Online Mad 27046.



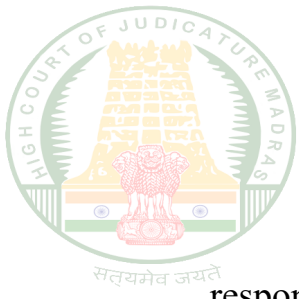
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6. The learned Government Advocate (CrI. Side) strongly opposed the contention of the appellant and submitted that in this case, PW1 is aged about 55 years, who belongs to the Arunthudiyar community, listed under Schedule Caste. Her husband employed as a Driver in a Water Scheme and his work was during night hours. Taking advantage of his absence and the victim's loneliness, the appellant who belongs to Most Backward Class, forcibly entered the victim's house and committed rape. When she attempted to raise alarm, her mouth was shut and the appellant threatened her and abused her by calling her caste name. Due to the shock, the victim could not immediately react and on the next day, she felt severe pain all over her body. Unable to bear the pain, she went to her daughter-in-law's house at Veliyampalayam and informed the incident. Thereafter, PW2/daughter-in-law, took the victim to the Government Hospital Thiruchengodu and from hospital, information sent to the respondent police. PW10 visited the Hospital, recorded the statement of PW1 and took her thumb impression. Finding that the offence involves SC/ST Act, he placed the FIR before the Superintendent of Police. Thereafter, PW11/Deputy Superintendent of Police took up investigation on the authorization of the Superintendent of Police



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visited the scene of occurrence on 08.09.2013, prepared observation mahazar and rough sketch in presence of witnesses and thereafter recorded the statements of witness and victim's daughter-in-law. In the meanwhile, PW7/Casualty Doctor attached to Government Hospital, Tiruchengodu conducted physical and clinical examination of the victim, collected pubic hairs, swabs and sent for forensic examination. Thereafter, the victim was sent to a Gynecologist at Government Hospital, Salem. PW8/Doctor attached to Government Hospital, Salem examined her. PW7 and PW8 issued Accident Registers/Ex.P8 and Ex.P9. In both Accident Registers, it is recorded that 1cm simple bruise injury found in the victim's private part. PW8/Doctor gave opinion/Ex.P10 confirming the possibility of sexual assault. The community certificates of the victim and the appellant collected and thereafter, on conclusion of investigation, charge sheet filed. In this case, all witnesses supported the case of the prosecution. PW1 informed her daughter-in-law/PW2 and thereafter, the entire case unfolded, clearly recorded by PW11. On the evidence of the witnesses and medical and other records, the Trial Court rightly convicted the appellant. Hence prayed for dismissal.



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7.The learned counsel appearing for the defacto complainant/third respondent opposed the appellant's contention and submitted that the victim belongs to Arunthathiyar community listed under Scheduled Caste and she was staying alone. The accused belonging to Most Backward Class, having a dominant position over the victim, forcibly entered the victim's house and committed sexual assault. She was in shock, a state of unable to react immediately, after gaining strength, suffering unbearable pain, she informed her daughter-in-law/PW2, who took her to the Hospital and thereafter, complaint lodged. The victim's medical examination by PW7 and PW8 confirms injuries on the victim's private parts. The Trial Court considering the evidence and medical records, rightly convicted the appellant. Hence prayed for dismissal of appeal.

8.Considering the submissions made and on perusal of the materials, it is seen that PW1/victim admits that the door was locked from inside and she was staying in a row house with asbestos sheet covering. It is not in doubt that any unusual sound or movement at 1:00 a.m. in the middle of the night would definitely gain attention of the neighbors. But none of the neighbors stated anything with regard to the occurrence proper. The only witness is



PW1. The victim/PW1 admits that the house was locked from inside, how it was unlocked and how the appellant gained entry, there is no evidence. Even in the observation mahazar, there is no reference to the lock. PW7/Casualty Doctor at Government Hospital, Tiruchengode, who examined PW1 on 08.09.2013 at about 5:30 p.m. In her evidence, she confirms that PW10/Sub-Inspector of Police gave a request with crime number to examine PW1 both physically and clinically and to give opinion whether the victim was subjected to rape. Till 08.09.2013 she was in the hospital. PW1's evidence is that MO1 to MO3 seized from her residence. On the contrary, Ex.P16/seizure mahazar records that MO1 to MO3 collected from Government Hospital, Tiruchengode on 08.09.2013 at about 11:00 a.m. further, no spermatozoa detected in MO1 to MO3 as per Ex.P7. Though the case was initially projected as house trespass and commission of rape, the Trial Court found that it was only a case of attempt to rape. It is clear in Ex.P1/complaint that there is no attestation by any Doctor, more particularly, PW7. Strangely, PW7 gives opinion/Ex.P10 in the reverse of forensic report/Ex.P7 stating that on clinical examination, the possibility of rape is there. What is the reasoning to come to such conclusion, nothing is available. The specific case of the appellant is that he had political rivalry



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with Chinasamy and PW1 was employed under him. Further, the appellant met with an accident, he was unconscious and was under treatment for almost three months, which confirms that he was not physically fit to have free movement. The evidence of witness, Doctors and medical reports confirm the abrasion over fourchette recorded in Ex.P9 can be a natural phenomena. The recording of Ex.P1/complaint is highly doubtful and there is several infirmities in the prosecution case. Hence, this Court finds prosecution miserably failed to prove the case beyond all reasonable doubt. Hence, giving benefit of doubt to the appellant this Court is inclined to set aside the conviction and acquit the appellant from the above case.

9. Accordingly, the judgment in S.C.No.66 of 2015 dated 03.11.2020 passed by the learned Sessions Judge, Special Court for SC/ST (POA) Act Cases, Namakkal is set aside and the appellant is discharged from the above case.

10. In the result, the Criminal Appeal stands allowed.

11. This Court appreciates Ms.Vrindha, Legal Aid Counsel for the third



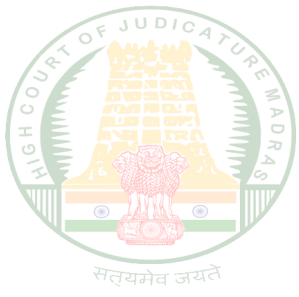
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respondent for her strenuous efforts in doing research and putting forth the case of the third respondent effectively. The Legal Services Authority to pay the remuneration to the Legal Aid Counsel as per Rules.

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07.01.2026

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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To

1. The Deputy Superintendent of Police,
Tiruchengode Sub Division,
Namakkal District.
2. The Inspector of Police,
Molasi Police Station,
Namakkal District.
3. The Sessions Judge,
Special Court for SC/ST (POA) Act Cases,
Namakkal.
4. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

cse

Pre-delivery judgment made in

CrI.A.No.227 of 2021

07.01.2026