

IN THE COURT OF THE SPECIAL JUDGE, FAST TRACK SPECIAL
COURT FOR EXPEDITIOUS TRIAL AND DISPOSAL OF RAPE &
PROTECTION OF CHILDREN FROM SEXUAL OFFENCES (POCSO)
ACT CASES, NIZAMABAD.

PRESENT: Smt. M. Kanaka Durga,
I Additional Sessions Judge, Nizamabad.
FAC: (SPL. JUDGE, POCSO COURT, NIZAMABAD)

Dated this the 01st day of October, 2024

P/SC No. 52 of 2022
[Cr No. 119 of 2021 of P.S. Navipet]

BETWEEN:

The State represented by Sub Inspector of Police, P.S. Navipet.

...Complainant

A N D

Miryala Ramulu @ Miryala Rammurthy, S/o Late Gangaram,
Age: 50 years, Caste: Gosangi, Occ: Labour, R/o H.No.4-68/8,
Mokanpally village of Navipet Mandal, Nizamabad Dist.

..Accused

Plea of accused : Pled not guilty

Finding of the Court : Found not guilty and acquitted

This case coming on 30.09.2024 for final hearing in the
presence of Spl. Public Prosecutor, for the complainant, and of
Sri Rajkumar Subedar, Advocate for the accused, and having
stood over for consideration, till this day, this Court delivered the
following:-

J U D G M E N T

1. The Sub Inspector of Police, P.S. Navipet, filed charge
sheet against the accused for the offences under Sections 354 of
IPC and sec.9 R/w 10 of POCSO Act, 2012 in Cr.No.119 /2021 of
P.S. Navipet alleging as under:

a). On 19.01.2021 at 20:00 hours the complainant/Devudu Rekha, came to PS and lodged a Telugu petition stating that, she blessed with one son and one daughter/victim girl, the complainant while going to Agriculture works , she left her children in his brother in Law's Sri Veeraiah. At about 16.00 hrs the Gandham Savithri summoned the complainant to come home. The complainant reached home and the said Veeraiah exclaimed that at 15.00 hrs, her daughter playing with her son at home, the accused Miryala Rammurthy has fetched her daughter by offering Rs.10/- in to his home. The witness Veeraiah followed the accused and found his home was locked internally. The said Veeraiah shouted for the accused but he did not responded. He gazed from the window and found the complainant daughter clothes were removed and accused was naked. The victim girl was laid on the table and found weeping. On observation, the Veeraiah summoned the neighbors. The accused fled away from the scene by the seeing the neighbors. Hence, she requested to take legal action against the accused who misbehaved with her daughter.

(b). Basing on the said complaint, LW-15/SI of Police, P.S. Navipet registered a case in Cr.No. 119/2021 for the offences under Sections 354 IPC and Sec.9 R/w 10 of POCSO Act and took

up the investigation into the case. During the course of the investigation Lw-15 have examined the complainant and recorded the statement. Later Lw-15 deputed the Lw-14/PSI to examine the LW-02/Victim girl, as such the LW-14 examined the victim girl. Later, LW-15 visited the scene of offence and secured the presence of Lws-03 to 8 who are witnesses and examined and recorded their statements. Later LW-15 secured the presence of LW-10/Ippa Sailu and LW-11/Gandham Abbaiah and conducted scene of offence panchanama and drawn rough sketch of the scene. During the examination the Lw-15 collected the Date of Birth certificate from Lw-9/Rodda Nadipi Sailoo, he depicts the victim girl age is 4 ½ years.

The Lw-15 sent the victim to Government General Hospital, Nizamabad under the escort of WPC of Navipet with a requisition to the Lw-12/Saroja Adapa to conduct clinical examination of the victim and furnish opinion. The Lw-12/Medical officer clinically examined the victim, reserved her opinion by preserving the material objects for onward transmission to FSL Hyderabad for examination and report.

On 20.07.2021, on receipt of credible information the LW-15 rushed to accused house and apprehended the accused at 11.30 hours and interrogated him on interrogation he voluntarily confessed to have committed this offence without any coercion. Orally, he confessed that, he is living with his family members in the Mokaipally village and accused wife was expired 15 years ago. He was addicted to alcohol and leading his life. On 17-09-2021 at 15.00 hrs, accused fetched the victim girl seeks to have intercourse by offering Rs.10/-. He took her to his home and removed her clothes and became naked and prepared to intercourse. At that time said villager Lw-4/Devudu Veeraiah came in to the scene and he observed him. He stopped his act and scared on seeing Lw-4. Later, he opened the door and pushed the Lw-4 and fled away from the scene. after the counseling the accused confessed to have committed this offence and the LW-14 took the accused into his custody and brought him to PS and effected his arrest duly informing the grounds of his arrest to him and to his brother and produced the accused in the Hon'ble Court wherein the Hon'ble court has remanded him to Judicial Custody.

The Lw-16 has taken the investigation from his predecessor Lw-15 and verified the investigation done by him in proper lines.

The Lw-16 obtained FSL report from FSL, Hyderabad in which the experts opined that the items nos. 1 to 4 are examined. Semen is not detected on items Nos.1 to 4.

Lw-12, who is the Medical officer, GGH Nizamabad examined Lw-2 and opined on the strength of FSL report that "Depending on clinical examination and FSL report there are no signs suggestive of sexual assault.

The Lw-17 has taken the investigation from his predecessor Lw-16 and verified the investigation done by him in proper lines.

The LW-17/SI of Police filed requisition before the Hon'ble court to conduct 164 statement of the LW-2/victim girl and accordingly LW-13/Hon'ble Magistrate recorded the statement of LW-02. After completion of investigation, LW-17, filed charge sheet.

2. The charge-sheet was taken on file for the offences punishable under Section 354 of IPC and sec. 9 r/w 10 of POCSO Act, 2012 against the accused.

3. On appearance of the accused, he was furnished with the copies of documents relied on by the prosecution, as required under Sec.207 of Criminal Procedure Code.

4. Having heard the learned Special Public Prosecutor and learned Counsels and on considering the material on record, charges for the offences punishable under section 354 of IPC and sec. 9 r/w 10 of POCSO Act, 2012 are framed against the accused, read over and explained to him, wherein the accused denied the charges, and pleaded not guilty and claimed to be tried.

5. During the course of trial, the prosecution has examined PWs.1 to 14 and marked Exs.P1 to P7 are marked. The accused did not examine any witnesses and did not mark any documents on his behalf.

6. After the closure of prosecution evidence, accused was examined under section 313 Cr.P.C by explaining the contents of incriminating evidence adduced against him by the prosecution witnesses, for which he denied the same and reported no defence

evidence.

7. Heard the arguments on both sides and perused the entire material on record.

8. Now the point for determination is:

"Whether the prosecution is able to establish the guilt of the accused persons for the offences under Sections 354 of IPC and sec. 9 r/w 10 of POCSO Act, 2012 ?

POINT:-

9. The burden lies on the prosecution to establish the offences under sections

354 of IPC :

Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will there by outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine.

Section 9: Aggravated sexual assault

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

Section 10:

Whoever, commits aggravated sexual assault shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

To substantiate the case of the prosecution, prosecution examined PW-1 to PW-14 and Exs.P1 to P7 are marked. The prosecution says that the accused lured the victim girl into his house by giving Rs. 10/- and removed both of their clothes and laid her on table and flew away from the spot upon getting caught by victim relative.

10. PW.1/Victim girl, deposed that the accused belongs to same village and his house is situated at a distance of her house and long back when she was in the house of her uncle namely Veeraiah/LW-4 left herself and her brother at his house before attending her coolie works, the accused came and offered her Rs. 10/- and took her to his house while she was playing and the accused took her to his room and locked the door removed his clothes and her clothes and pressed her over her upper body for which she started crying in the meanwhile Veeraiah/LW-4 came and knocked the door but the accused didn't open and got opened the door by fisting and the accused ran away and veeriah wrapped her body and taken her out. Police got recorded her statement and she is unable to read the contents shown to her and she informed the matter to her mother and on the next day morning Doctors conducted check up and the police took her to Judge and recorded her U/sec. 164 statement and her father

went abroad.

During her cross examination, she admitted that the accused is her relative and known person and there are lands in her village and at the time of incident her brother by name Vijay Bhasker was present and her brother was not accompanied with her and her house is situated at distance of accused's house and he was taken her in evening and there are houses situated surrounding the house of accused and there were people residing at their house but she do not know their names and her brother can identify the accused and her brother did not ask why he was taking her to his house and LW-4/Veeraiah house is situated nearby her house and veeraiah did not witness her. She further admitted that there is a road situated in front of the house of the accused and public used to move and within 10 minutes Veeraiah/LW-4 came to the house of accused and he was not accompanied by her brother and they went to police station on the same day evening with her brother, mother and Veeraiah and they remained 15 minutes at police station and on the next day morning police called them, later, police never called them. Further, she denied all suggestions, when as per the evidence of PW-1, when she was playing with her brother and none other children were present and if the accused came to her and offered

Rs.10/- and asked her to come for which a minute time will be taken for offering and taking the amount and taken her away to his house, by that time her brother/PW-2 is present along with her and he might have observed for what purpose she has been going along with accused, but, he did not questioned accused, the same is expressed in the evidence of PW-2.

11. PW.2/Vijay Bhasker, who is the brother of the victim girl, deposed that about 3 years back himself and his sister were playing at Demmudu Chettu and by the time their mother was not there and she went to Coolie and his uncle Veeriah/LW-4 were breaking the wood believing that rain would come and the accused came and offered him Rs.10/- and took his sister/victim girl and taken away and he believed that true and then his uncle Veeraiah enquired about his sister with him then he replied the accused taken away and asked him to go and first they went to shop situated beside his house and then he enquired his sister and they said she was not there, then his uncle asked him to go to bus stand and search for her accordingly he went to bus stand and his uncle to accused house and his uncle heard the hues and cries of his sister from the house and saw through window by pushing door of the window and the same was informed to him by his uncle and he do not know what had happened later. Police

asked him to explain the incident and by the time his mother reached and the witness identified the accused.

During cross examination, he admitted that himself and his sister were playing at Demmudu Chettu which is situated in front of his house and on the back side of house on kirana shop is situated and so many houses were situated around his house and they were playing at 02:00 p.m. on that day and at the same time accused also came and he never accompanied his sister and he remained at his house and within 15 minutes his uncle came and his uncle house is situated 10 feet distance from his house and his aunt namely Laxmi were present and his mother came at 04:00 p.m. and he informed to his uncle that accused has taken away the victim girl and himself and his uncle went to accused house and there are houses situated near accused house and no road is situated in front of the house of accused and his uncle opened the door and taken away his sister by dressing up her and by the time his uncle, himself, his sister and his mother were present at the house and they remained 15 to 20 minutes at his house and thereafter went to police station and he did not accompanied to police station and LW-4, his mother and sister went to police station and on the next day morning police came and recorded his statement and they got land at their village and

there is no disputes between his father and accused and again witness says that lands owned by accused is not related to them and denied all suggestions. When PW-1 and 2 were playing alone , none other children were present, then there is every chance to witness the PW-1 was taken away by accused but no such instance was stated by PW-2, further, he did not inform immediately after seeing PW-1 going along with the accused to his uncle veeraiah. Surprisingly, he says that he do not know where PW-1 gone. It is nothing but tutored by the Witness on record.

12. PW.3/Devudu Rekha, deposed that about 3 years back, she went to Coolie work for plantation at about 9.00am and left her children with Lw4/Veeraiah, on that it was happened to be close to school and at about 4.00p.m., Lw6 came to agricultural fields and informed that the accused taken away her daughter by giving Rs.10/- then she went to her brother-in-law/Lw4 and enquired the matter and he informed that while he was breaking firewood the accused taken away her daughter by offering Rs.10/- and the same was informed to him by her son/Pw2. Lw4 searched for her daughter and went to your house and heard hues and cries of her daughter from his house then Lw4 tried to pushed the door of the house but it did not

open, then he went to back side of house and saw the girl lying on the bench without having any dress and the accused also undressed and again Lw4 went to the main door and pushed the door forcibly and got entered into his house, then the accused ran away by wearing dress and lw-4 got dressed her child and took her to her house.

During cross examination, she admitted that 2 years prior to the incident her husband had been to abroad and accused is not related to her and herself and accused is having lands in her village and again the witness says that the accused has no lands and there are houses situated in and around Demmudu Chettu where the incident happened and the house of LW-4 situated at a distance of 40 yards and between the houses there are number of houses situated related to her relatives and the time taken between her house and the accused house is about 10 minutes walk and there are houses situated around the house of accused and LW-6/Savithri informed her about the incident when she was at the agricultural fields within 2 minutes she reached her house and by the time she reached the house LW-4, PW1 and PW2 were present and PW1 and PW2 informed about the incident and she scribed the complaint with her know village person and PW1, LW4, and she along with some villagers went to the police station

in auto and she reached the police station by 08:00 p.m. and police recorded her statement and on the next day the victim girl was sent to Govt. Hospital for examination. Further, she denied all suggestions.

13. PW.4/Devudu Veeraiah, deposed that about 3 years back, Pw3 left her children Pw1 and Pw2 at his house for attending coolie, she left the house at 9.00am and at about 2.00pm, the Pw1 and Pw2 are playing in front of his house under a tree and when he enquired at Pw1 with Pw2 and found missing. Pw2 informed him that the accused has taken away Pw1 by catching hold of her hand, then he sent Pw2 for searching and he went to the accused house and heard hues and cries of Pw1 at your house then he knocked the door but the accused did not open, then pushed the windows and found the girl and the accused, then he turned around the house and pushed the front door of the house and entered into house and saw Pw1 naked and also on accused. Pw1 lying on table, then he dressed up the Pw1 and took her outside in the meanwhile the accused ran away, and he raised cries and LW5, Lw7 and Lw8 came from their house who are the neighboring person of the accused house and they tried to catch the accused but accused ran away.

During cross examination, he admitted that the house of the accused is about distance of 2 to 3 houses from his house and he can reach the house of accused within 5 minutes and the house of Madiga Gangaramm House of Ejamma and house of Upender are located between his house and the house of accused and opposite house of accused the house of Gangaram is located and it is a public moving place and his office timing are from 07:00 am to 02:00 pm and that on the date of incident he was on leave and on hearing his hues and cries public gathered at the house of accused and beside the house of accused, the house of pentaiah is located and it was raining on the date of incident and it is a roof house consisting one room and the accused belongs to his community and two years back, his brother/father of PW1 went to abroad for livelihood and he and his brother hold agricultural lands at his village but accused did not posses any agricultural lands and he reached the house of accused at 03:00 pm and he was there at about 30 minutes and he did not file any complaint to police and he do not know who given complaint to police and again says that PW3 field complaint before the police and PW3 went to the house of accused along with PW1 and on the same day night his wife and pw3 went to police station and on phone he confirmed that they were in police station.

He further admitted that he used to visit police station on his office works and on the next day morning police came to his house at 08:00 pm and police examined him and recorded his statement and he know the contents of his statement and police read over the contents to him. Further, he denied all suggestions. As per his evidence, he is cutting firewood at the time of alleged offence and at that time the both PW-1 and 2 were playing and he did not witnessed while the accused was taking PW-1 and searched after receiving information from PW-2 that PW-1 was missing and informed that PW-1 was taken away by the accused, then he went to accused house and saw the girl was naked in the house of accused.

14. PW-5/G. Vijaya, deposed that about 3 years back, Pw3 and wife of the Pw4 went to Coolie work for plantation at about 9.00AM and Pw3 left her children with Pw4 and she was at her house, when Pw4 searching for victim girl she ascertain the matter on which Pw4 told that he was searching for victim girl and Pw2 informed to Pw4 that the accused took the victim girl, she also seen the victim girl naked then Lw7, Lw8 came to the house of the accused, who pushed her and ran away. Pw4 took the victim girl and came to his house and the accused committed rape against Pw1.

During cross examination, she admitted that she came to know at about 02:00 pm to 02:30 pm about missing of PW1 through PW2 and she was remained at her house and her house is far away from the house of PW4 and the house of accused is away form 4 to 5 houses to her house and those houses are belongs to Madiga Community and nobody has come from their houses and she went to house of accused at about 03:00 pm there were on Pentaiah, one Gangaram and PW4 who took victim girl on his shoulder and came out then pushed her away and he ran away and the wife of PW4 and Pw3 went to police station and gave complaint to police at 07:00 pm and she do not know how to read and write and police read over her statement. Further, she denied all suggestions. Her evidence is contradictory since she deposed that she witnessed the incident in the chief examination whereas in the cross examination, she never spoken about witnessing the incident then it can be presumed that PW-5 was not present at that time and not witnessed the incident, since she is a close relative of victim girl she might have stated.

15. PW-6/G. Savithri, deposed that about 3 years back. Pw4 informed about the commission of offence against Pw1 by the accused and asked her to inform the incident to Pw3, then she went to the agricultural fields and informed to Pw3 about the

incident and she cannot give the accused name and she can identify the accused and Pw3 came to his house and enquired with Pw4 and Pw1 about the incident. Pw1 informed that the accused un-dressed her.

During cross examination, she admitted that she do not know how to read and write and the house of Pw1 is nearby her house and Pw4 is uncle to her and Pw4 came to her house and informed the incident and told her to inform to Pw3. Pw3 was in agricultural fields which is at distance of 10minutes from her house she returned back to the house of Pw4 at about 4.10PM. Pw3 and wife of Pw4 went to police station at about 8.00 to 8.30PM. On the next day morning at about 11.00AM police came to her house and enquired. She, Gangadhar, and her in-laws resides in their house and she know the contents. Police read over the contents to her. Further, she denied all suggestions.

PW-5 and 6 not identified the accused.

16. PW-7/G. Pentaiah, deposed that about 3 years back at about 3.00PM, Pw4 breaking the fire wood by the time he was present in his house and he did not witness the incident. Pw4 informed about the commission of offence against Pw1 by the accused. Pw4 came to the house of the accused and asked the accused to open the door. Pw4 believing that victim girl was

inside the house of the accused. He came out of the house after hearing the sound of Pw4. Pw4 saw the victim girl from back side of the widow. Victim girl as well as the accused were naked. Pw4 came around to the door and kicked opened the door of the house of the accused by the time he was present and the accused ran away on seeing them and they took the victim girl and came out. The Pw4 informed him that the accused took the victim girl by offering Rs. 10/- to his house.

During cross examination, he admitted that the distance between his house and the house of the Pw4 is about 1/2 Kms. There were no houses around the house of accused. Only by the side of the house of accused brother's houses is situated. There was a road situated in front of the house of the accused and opposite to the house of the accused his brother's house is situated. By the time, it was drizzling and he did not witness the incident but he came to know about the incident through Pw4 and denied all suggestions. His evidence will not support the prosecution case, since his evidence is hearsay evidence.

17. PW-8/G. Sailoo, deposed that about 3 years back at about 3.00p.m. he was present in his house and it was heavily raining and he heard some noise. Pw4 raised hues and cries in

front of his house. The distance between his house and the house of the accused is nearby, when he came out from his house by the time Pw4 knocking the door of house of the accused. By the time victim girl was inside the house of the accused. By the time, the clothes over the body of victim girl were present and he saw the accused also. He was also wore dress and he never witness the incident inside the house of the accused. This witness is an independent witness therefore his evidence can be relied on. PW-1 to 7 are interested witnesses.

18. PW-9/R. Nadipi Sailoo, deposed that on 20.04.2021. S.I of Police, Navipet came to his office and informed about the commission of offence against victim girl and the requested to issue birth certificate of victim girl. Accordingly, as per G.P. record, he issued birth certificate of victim girl and he handed over birth certificate to mother of the victim girl/Pw3 and as per the birth certificate the date of birth of victim girl is 03.01.2017. Ex.P1 is the birth certificate of victim girl.**9/R.** Nadipi Sailoo, deposed that on 20.04.2021. S.I of Police, Navipet came to his office and informed about the commission of offence against victim girl and the requested to issue birth certificate of victim girl. Accordingly, as per G.P. record, he issued birth certificate of victim girl and he handed over birth certificate to mother of the

victim girl/Pw3 and as per the birth certificate the date of birth of victim girl is 03.01.2017. Ex.P1 is the birth certificate of victim girl.

During cross examination, he admitted that S.I of police came to his G.P. Office and on his dictation only, Police recorded his statement and it is not mentioned in the statement about the commission of the offence against victim girl and denied all suggestions.

19. PW-10/G. Abbaiah, deposed that about (3) years back, he along with LW-10 went to house of the accused on the request of police where police conducted panchanama in his presence and also Lw10 and also prepared rough sketch on which he put his thumb impression and Lw10 signed on it, in connection with offence against victim girl at the house of the accused.

During cross examination, he denied all suggestions.

20. PW-11/Nandigama Rama, deposed that on 19.07.2021, at about 20:20 hours while he was discharging his duty at Navipet police station and he received instruction from LW-15/SI Yakub to record the statement of Victim girl and accordingly he recorded the statement of Victim girl at P.S. Navipet on 19.07.2021, in which the victim girl stated that when

she was playing with her brother near her house in the rains, the accused approached the victim girl and offered Rs. 10/- and took the victim girl to your house and locked the door from inside and the accused removed his clothes and then undressed the victim girl for which the victim girl started crying and then her uncle/PW-4 and neighbors knocked the door and the accused opened the door and fled away from the scene of offence.

During cross examination, he admitted that on oral instructions of S.I of Police/Lw15 he recorded the statement of victim girl on 19.07.2021 at 8.15PM and on the same day night he recorded the statement of victim at about 8.20PM at Help Desk of Child welfare beside P.S. Navipet and his statement was also recorded on the same day night at P.S.Navipet by Lw15 and the victim girl did not stated before him in her 161 statement that her uncle Pw4 got himself dressed her and taken her away from the house of Ram Murthy and denied all suggestions.

21. PW-12/Dr. Saroja Adapa, deposed that she took the history of mother as the child is 3 years old and unable to tell and on 20.07.2021, he received requisition from the Women ASI, PS Navipet to examine the victim girl and accordingly, she had examined the victim on the same day and found no bleeding and

she had collected swabs and send for analysis on the same day and received report from FSL on 15.11.2021 as per the report semen and spermatozoa are not detected in cervical vagina valve swabs and slides. Semen and spermatozoa are not detected in item nos.1 to 4. There is no signs and suggestive of sexual assault. Ex.P2 is medical report. Ex.P3 is FSL report. Ex. P9 is the final opinion.

During cross examination, she admitted that as per her examination the victim girl is very much normal.

22. PW-13/Sk. Yakub, deposed that on 19.01.2021 at 20:00hours, Pw3 came to the police station and lodged a complaint and basing on the contents of the complaint he had registered a case in Cr.No.119/2021 U/Sec.354 IPC & Sec.9 r/w 10 of POCSO Act, 2012 and issued FIR and took up investigation. Ex.P4 is the complaint. Ex.P5 is the FIR. During the course of Investigation, he had examined Pw3 and recorded her statement. Later, he had deputed Pw.11 to examine Pw.1 and accordingly, Pw12 examined the victim girl and reserved her opinion by preserving the material objects to FSL Hyderabad for examination and report. Thereafter, he sent the victim girl/Pw1 to Government General Hospital, Nizamabad under escort WPC for

medical examination and visited the scene of offence situated at Mokanpally village where he secured the presence of Pw4 to Pw8 examined them all the recorded their statements.

He further deposed that thereafter, he secured the presence of two mediators Lw10/Ippa Sallu & Pw10 and conducted scene of offence panchanama and drew rough sketch of the scene of offence. Ex.P6 is the CDF along with rough sketch. Later, he had collected the date of birth certificate of victim girl from Pw9 and on 20.07.2021, he apprehended the accused at 11.30 hours and on interrogation he voluntarily confessed the commission of offence. Later, he had effected the arrest of the accused at 12.30hours and produced the accused before the Hon'ble court and sent him for judicial remand. Later, he had handed over the file to his successor/Lw16 for further investigation.

During cross examination, he admitted that the scene of offence is about (7) Km distance from P.S. Navipet and the witnesses listed in the charge sheet are belongs to same community. But he do not know whether they are relatives to the victim family and also there are houses of schedule caste in and around the surrounding to the house of accused and he did not examine anybody and he did not mentioned the name and house

number of the accused and houses of surrounding persons in CDF and rough sketch and the date of conducting of CDF is mentioned as 24.01.2021 and it was drafted by him and he had examined Pw2, Pw4 to Pw8 at Mokaanpally village of Navipet mandal on 20.07.2021 at 9.00AM and he stayed there till 10.20AM and denied all suggestions.

23. PW-14/D. Raja Reddy, deposed that on 11.02.2022, he received the case file from his predecessor/LW-16 who received FSL report and he had verified the investigation done by PW-13 and LW-16 and found in proper lines and took up further investigation and collected the date of Birth certificate of PW.1 from PW.9 and also examined him and recorded his statement. Later, he had filed requisition before the Hon'ble Court for recording of U/sec. 164 statement of the Victim girl and accordingly LW.13 recorded the statement of Victim girl and marked U/sec.164 statement of the victim girl as Ex.P7 and after collecting all the material objects and evidence he filed charge sheet against the accused.

During cross examination, he admitted that after checking of charge sheet he filed before the Hon'ble court and the Charge sheet will be filed after completion of investigation and as per charge sheet the complaint was given on 19.01.2021, FIR was

issued on 19.07.2021 and as per FIR there is no signature or the complainant and as per CDF the date is mentioned as 24.01.2021 and in Col. No.9 of CDF date, time and visit of place of occurrence is mentioned as 21.01.2021 at 900hours and also as per CDF Further, he denied all suggestions.

The investigating officer admitted that during course of investigation there is no mentioned of door no. of accused and the surrounding houses and also there is no mention about pressing of the upper body of the victim girl by the accused either in 161 Statement nor in 164 statement. He further admitted that the victim girl never stated either in 161 statement nor in 164 statement about the pushing the door with both fists by Pw4 and got opened the door when accused was not opened the door. The entire evidence on record is exaggerated by witnesses before the court since the IO himself admitted that there is no pushing door by PW-4 and got opened the door, when the accused was not opened the door and accused never committed any offence. Therefore, the evidence on record is not reliable and the following citations on which the court is relying on in appreciation of evidence on record and aptly applicable to this case also.

Jagrani Devi V. The state of Bihar(2017) 170 AIC 711: (2017) : Held,. It is a settled principle of law that conviction

can be based on the sole testimony of the victim of sexual assault without corroboration from any other evidence and the statement of the victim is more reliable than any other witness. Where the testimony of victim of sexual assault instills the confidence in Court, the same can be relied upon for conviction of the accused. It is also a well reliance on the testimony of the victim is not a requirement of law but a guidance to prudence under the given circumstances. It is significant to examine whether the medical evidence adduced by the prosecution finds support from the oral testimony of the victim.

Thus, the medical examination report also does not lend any support to evidence of the prosecutrix. There is no other evidence available on record which could support the offence of rape having been committed upon her and in case of rape, the onus is always on the prosecution to prove each ingredient of the offence alleged against the accused and such onus never shifts on the accused. There is no dispute with the proposition sought to be urged by counsel on the basis of the sole testimony of the victim, however, the court must be satisfied that the testimony of the victim is of sterling quality and inspires confidence.

The testimony of the prosecutrix has to be consistent in line with the case of the prosecution, as it cannot be always presumed that the statement of the prosecutrix is always true and without any embellishment.

Therefore, the courts should, at the same time, should bear in mind that false charges of rape are not uncommon. There have also been rare instances where a person has persuaded a gullible or obedient daughter to make a false charge of a rape either to

take revenge or extort money or to get rid of financial liability.

The testimony of victim fails to inspire confidence and the same cannot be relied for the conviction of the respondent. Her testimony is full of inconsistencies, concealment, improvements and exaggerations, which casts a shadow of doubt and has led us to find it difficult to rely upon, consequently the same does not corroborate with the medical evidence. Therefore, the prosecution has failed to establish the charges against the respondent punishable under the IPC and consequently the charges punishable under the POCSO Act.

Sunil Kumar V. state of Kerala AIR Online 2019 Ker 107:

Victim in her U/sec. 164 Cr.P.C. statement, the victim completely exonerated the respondent; she did not level any allegations, whatsoever, against the respondent. She denied if the respondent had outraged her modesty. There are no allegations if the prosecutrix was tutored to make the said statement. The prosecutrix was in the company of her brother. Apparently, she was not under fear or pressure from the respondent to make the statement. Since the prosecutrix has given entirely two conflicting statements i.e., one before the police and other before the learned Metropolitan Magistrate, there was no sufficient material to proceed against the respondent for commission of the afore said offence.

Vishal v. State of U.P. and Ors. AIR Online 2019 All 249:

Prosecutrix is PW-1 and though she stated in her statement recorded U/sec. 164 Cr.P.C. before the Magistrate that the

respondents followed her on 28.05.2016 up to her house at Village D and on 03.06.2016 respondent proposed her to marry, but this version is not deposed before the court. She uttered her egoist, used obscene words and proposed for marriage. Other witnesses are not the eye witness account of the incident but they have been informed about the incident by the prosecutrix. Their version is also different in different stages, i.e., at the time of the investigation and while deposing before the trial court. The trial court recorded the finding of acquittal on the basis of omissions, exaggeration and contradictions in the statement of the prosecution witnesses. The view taken by the trial court is one of the Plausible view. It can be reversed only when the views are possible, the view in favour of the accused/respondent should be accepted. Again suspicion however strong, cannot take place on proof-Acquittal held proper.

State of Chhattisgarh V. Raman Dheemar AIR Online 2019 Chh 248:

No exhaustive statement of facts are required to be narrated for the disposal of this matter, suffice it to say that the respondent was tried for the offence punishable under sections 354(d), 509 and 506(II) of the IPC along with section 7 r/w 8 of POCSO Act, 2012.

Victim is a minor girl aged about 14 years. On going through her testimony, she testified in her court statement that she was studying in class 9th at the time of alleged incident and on 14.12.2016, when she was going to school, the respondent/accused teased her and she narrated the incident to her uncle and mother.

From the court statement of the victim(PW-2), it appears that there are material contradictions and omissions has come in her statement. Victim, admits in his cross-examination that there was a quarrel took place between him and the father of the accused, looking to the aforesaid, possibility of false implication of the respondent cannot be ruled out.

It is well settled proposition of law that if the trial court after due appreciation of the material available on record came to the conclusion of acquittal and the findings is not perverse then normally it should not be interfere by the appellate court- Acquittal Justified.

Deepak Gulati Vs. State of Haryana, (2013) 7 SCC 675:

In terms of Sec. 354 of IPC, for an act to constitute an offence, the act of assault or criminal force to woman should be with the intention of outraging her modesty. Section 354-A IPC requires conduct specified therein being done with 'sexual intent' and section 354-B IPC requires 'assault or use of criminal force on a woman with the intention to disrobe her'. Sections 8 r/w 12 of the POCSO Act also require sexual intention. Perusal of the statement of the prosecutrix clearly shows that there is no allegation that there was any intention attributed to the respondents of outraging the modesty of the prosecutrix or doing any act with any sexual intent or any attempt made to disrobe her. Thea allegations are that she was harassed and threatened for which charge has already been framed u/sec. 506/34 IPC.

24. At the outset on perusal of the oral and documentary evidence on record, the material witnesses PWs.1 to 14 not supported the case of prosecution and there are not cogent and corroborative evidence on record to build the case against the Accused and the prosecution failed to establish the essential ingredients of offences u/sec. 354 of IPC to bring home the guilt of the accused and also failed to prove the guilt of accused for the offence u/sec. 9 r/w 10 of POCSO Act, 2012. Therefore, without any hesitation, it can be held that the prosecution failed to establish the guilt of the accused beyond all reasonable doubt. Point is determined accordingly.

25. In the result, the accused is found not guilty for the offence punishable under Sections 354 of IPC and sec. 9 r/w 10 of POCSO Act, 2012 and the accused is acquitted for the said offences under Section 235(1) Cr.P.C. The accused shall be set at liberty, if he is not required to be detained in any other case. Since there is no case property, there is no property disposal order.

Typed to my dictation, corrected and pronounced by me in the open Court on this the 01st day of October, 2024.

Sd/-
FAC : SPECIAL JUDGE,
POCSO COURT,
Nizamabad.

APPENDIX OF EVIDENCE
Witnesses examined

For Prosecution:

PW.1: Victim Girl(Lw.2)
PW.2: Vijay Bhasker (Lw.3)
PW.3: Devudu Rekha(Lw.1)
PW.4: Devudu Veeraiah (Lw.4)
PW.5: G. Vijaya (Lw.5)
PW.6: G. Savithri (Lw.6)
PW.7: G. Pentaiah (Lw.7)
PW.8: G. Sailoo (Lw.8)
PW.9: R. Nadipi Sailoo (Lw.9)
Pw.10: G. Abbaiah (Lw.11)
PW.11: Nandigama Rama (Lw-14)
PW.12: Dr. Saroja Adapa (Lw-12)
PW.13: Sk. Yakub (Lw.15)
PW.14: D. Raja Reddy (Lw-17)

For Defence:

-None-

Exhibits marked for Prosecution:-

Ex.P1: Birth Certificate of victim girl
Ex.P2: Medical report
Ex.P3: FSL report
Ex.P4: Complaint
Ex.P5: FIR
Ex.P6: CDF along with rough sketch
Ex.P7: Sec. 164 Cr.PC statement of PW1
Ex.P8: Final opinion

For Defence:

- Nil-

MOs marked

-Nil-

Sd/-
FAC : SPECIAL JUDGE,
POCSO COURT,
Nizamabad.