

Rajasekar
v.
The State Rep. by The Inspector of Police

(Criminal Appeal No. 756 of 2024)

5 February 2024

[Vikram Nath and Satish Chandra Sharma, JJ.]

Issue for Consideration

The appellant who was convicted for offence u/ss. 3(a) r/w s. 4 of the POCSO Act, and was awarded the sentence of ten years RI alongwith a fine, the quantum of sentence awarded, if justified.

Headnotes

Protection of Children from Sexual Offences Act, 2012 – ss. 3(a) r/w s. 4 – Quantum of sentence – Conviction of the appellant for offences u/ss. 3(a)/4 and sentenced to ten years RI alongwith a fine of Rs. 5,000/- with a default clause to undergo SI for three months alongwith the compensation of Rs One Lakh to the victim by the courts below – In appeal before this Court, the appellant’s plea that at the time of conviction, the minimum sentence prescribed u/s. 4 was seven years and as on date, the appellant have already served more than seven years of his sentence; and that the appellant is providing for the day-to-day expenses of the victim and her child:

Held: Considering the totality of the circumstances of the case, to meet the ends of justice, the period of imprisonment awarded is reduced to the period already undergone by the appellant – However, the conviction u/s. 3(a) r/w s. 4 is upheld – Sentence/ sentencing. [Para 6]

List of Acts

Protection of Children from Sexual Offences Act, 2012.

List of Keywords

Protection of Children from Sexual Offences; Quantum of sentence; Compensation; Minimum sentence; Sentence modified; Sentence reduced.

Rajasekar v. The State Rep. by The Inspector of Police**Case Arising From**

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No.756 of 2024

From the Judgment and Order dated 26.10.2021 of the High Court of Judicature at Madras in CRLA No.176 of 2017

Appearances for Parties

B Karunakaran, Mrs. K Balambihai, Ajith Williyam S, V M Eashwar, S. Gowthaman, Advs. for the Appellant.

Judgment / Order of the Supreme Court**Order**

Leave granted.

2. The Appellant before us is aggrieved by the judgement dated 26.10.2021 passed by the High Court of Judicature at Madras in Criminal Appeal No. 176 of 2017 whereby the High Court dismissed the appeal preferred by the Appellant and confirmed the judgement dated 03.02.2017, passed by the Sessions Court--convicting the Appellant for offences u/S. 3(a) r/w Sec. 4 of the Protection of Children from Sexual Offences ('**POCSO**') Act, 2012.
3. At the outset, it must be noted that *vide* order dated 12.07.2022, this Court issued notice only on the quantum of sentence awarded to the Appellant. Therefore, only that limited question is required to be considered by this Court.
4. *Vide* the judgement of the Sessions Court, the Appellant was sentenced to undergo ten years RI along with a fine of INR 5,000 with a default clause to undergo SI for three months. The State Government was also directed to pay INR 1,00,000 to the victim as compensation under Rule 7(2) of the POCSO Rules, 2012. The sentence imposed by the Sessions Court was confirmed by the High Court without any modification.
5. Learned Counsel for the Appellant submits that at the time of conviction, the minimum sentence prescribed u/Sec. 4 of the POCSO Act was seven years and as on date, the Appellant has already served more than seven years of his sentence. It is also submitted

Digital Supreme Court Reports

that the Appellant is providing for the day-to-day expenses of the victim and her child and therefore, further imprisonment will impact not only his family but also the victim's. On these grounds, Learned Counsel presses for leniency.

6. Having heard the Learned Counsel for the parties and considering the totality of the circumstances of the case, we are of the view that the ends of justice would be met if the period of imprisonment awarded against the Appellant is reduced to the period already undergone by him. Accordingly, the appeal is allowed in part. The conviction of the Appellant u/s. u/S. 3(a) r/w Sec. 4 of the POCSO Act, 2012 is hereby confirmed. However, the sentence imposed by the Sessions Court and confirmed by the High Court is hereby modified and reduced to the period already undergone by the Appellant.
7. The Appellant be set at liberty forthwith in case he is not required in any other case.
8. With the aforesaid, the appeal stands disposed of. Pending application(s), if any, shall also stand disposed of.

Headnotes prepared by: Nidhi Jain

Result of the case: Appeal partly allowed.