

Guruthath vs State Rep By on 9 October, 2026

2026:MHC:4179

Crl.A.No.1235 of

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.09.2026
DELIVERED ON : 09.10.2026

CORAM

THE HONOURABLE Mr.JUSTICE G.ARUL MURUGAN

Criminal Appeal No.1235 of 2022

Guruthath

.. Appellant

Vs.

State rep. by
The Inspector of Police
All Women Police Station
Hosur, Krishnagiri District
(Crime No.21/2019)

.. Respondent

Criminal Appeal filed under [Section 374\(2\)](#) Cr.P.C. against the judgment dated 11.10.2022 passed by the learned Sessions Judge (Fast Track Mahalir Neethimandram), Krishnagiri, in Spl.S.C.No.7 of 2020.

For Appellant : Mr.E.Kannadasan
For Respondent : Mr.N.Palanivel
Government Advocate (Crl. Side)

JUDGMENT

The appeal is filed challenging the judgment dated 11.10.2022 passed by the learned Sessions Judge (Fast Track Mahalir Neethimandram), Krishnagiri, in Spl.S.C.No.7 of 2020. Page 1 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 Crl.A.No.1235 of 2022

2. The appellant/sole accused was convicted for the offence under [Section 342](#) IPC and [Section 9\(m\)](#) read with [Section 10](#) of POCSO Act and sentenced by the trial Court as under:

Penal Provision	Sentence of Imprisonment	Fine Amount
Sec. 342 IPC	One year RI	Rs.1,000/- in default to undergo three months SI
Sec. 9(m)	Seven years RI	Rs.5,000/- in default to undergo

The sentences were ordered to run concurrently.

3.1. It is the case of the prosecution that the complainant (P.W.1) has two children, a son and a daughter. The victim (P.W.2)/daughter of P.W.1, born on 21.10.2009, aged 10 years, was studying in V standard at Sishya School, Hosur. In Shantiniketan Matriculation School, Tamil handwriting and astrology classes were conducted during weekend holidays.

3.2. Both the handwriting and astrology classes were conducted in adjacent classrooms at the Shantiniketan School. The Tamil handwriting classes were held from 10 A.M. to 12 noon, which the victim (P.W.2) was attending for nearly four months. Subsequently, the complainant/father (P.W.1) also joined the astrology class, which was held during the same Page 2 of 32
<https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 hours. While so, on 24.11.2019 at around 10 A.M., the complainant (P.W.1) left his daughter/victim (P.W.2) in the handwriting class and proceeded to attend his astrology class in the adjacent classroom.

3.3. When the victim (P.W.2) was searching for her Tamil book, the appellant/accused who is the correspondent of Shantiniketan Matriculation School, in the guise of helping her, took her to a nearby room and with the intent of committing sexual assault on the minor, confined her by locking the room and hugged her tightly, caught hold of her hands and kissed her cheek, touched and pressed her breast. When the victim tried to get away, again the appellant/accused caught hold of her and threatened not to reveal it to her father and thereby, committed aggravated sexual assault.

3.4. The victim (P.W.2) ran and came crying at around 10.30 A.M. and when her father (P.W.1) enquired as to what had happened, the victim (P.W.2) narrated the incident that the correspondent of the school, in the guise of helping her to search the book, took her to a room and committed sexual assault.

3.5. Nirmala (P.W.4), who was attending astrology class along with the father (P.W.1), called the child helpline number 1908 and the Member Page 3 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 of the Child Welfare Committee (P.W.10), came and enquired. The father (P.W.1) lodged the complaint (Ex.P1), and the Sub-Inspector of Police (P.W.20) received the complaint and registered FIR (Ex.P13), for the offences under [Section 9\(m\)](#) read with [Section 10](#) of the POCSO Act.

3.6. The Sub-Inspector of Police (P.W.20) went to the scene of occurrence and enquired P.W.1 to P.W.5 and prepared the Observation Mahazar (Ex.P4) and rough sketch (Ex.P17), in the presence of P.W.4 and P.W.5. The Inspector of Police (P.W.22) took up the investigation, made a request to the School (Ex.P6) and sent the victim (P.W.2) for medical examination along with a women constable P.W.16.

3.7. The Doctor (P.W.17) examined the victim (P.W.2) and issued Accident Register (Ex.P11). The Inspector of Police (P.W.22) arrested the appellant/accused and recorded his confession statement and the admissible portion alone, signature of the accused was marked as Ex.P18 and the signatures of P.W.6 and P.W.9 was marked as Ex.P5 and Ex.P8, respectively.

3.8. The constable (P.W.15) took the accused for medical examination and the Doctor (P.W.18) examined the accused and issued potentiality certificate (Ex.P12). The Doctor (P.W.21) examined the victim Page 4 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 (P.W.2) and issued the medical certificate, final opinion and biological report in Exs.P14, P15 and P16, respectively. The Inspector of Police (P.W.22) altered the offences to [Section 9\(m\)](#), [9\(f\)](#) read with [Section 10](#) of the POCSO Act and [Section 342](#) IPC through an alteration report (Ex.P23) and on completion of the investigation filed the final report.

3.9. The trial court took cognizance, issued summons and on appearance of the accused, complied with [Section 207](#) Cr.P.C and framed charges under [Section 342](#) IPC and [Section 9\(m\)](#) read with [Section 10](#) of the POCSO Act. On being questioned, the appellant/ accused pleaded not guilty and stood trial.

3.10. The prosecution, in order to prove the charges, examined P.W.1 to P.W.22 and marked Ex.P1 to Ex.P23. On completion of the prosecution evidence, when the appellant/accused was questioned under [Section 313](#) Cr.P.C about the incriminating materials available against him, he denied the same as false. The defence marked Ex.D1 to D3, however, not examined any witnesses.

3.11. Upon the conclusion of the trial and after hearing the arguments from both sides, the trial court concluded that the charges against the appellant/accused were proved and imposed the sentence as Page 5 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 stated supra. Challenging this conviction and sentence, the present criminal appeal has been filed.

4.1. Learned counsel for the appellant/accused contended that although a member of the Child Welfare Committee and the police were present at the school immediately after the alleged occurrence at around 10:30 A.M. on 24.11.2019, the FIR (Ex.P13) was registered against the appellant only at 4.00 P.M. Hence, there remains a considerable, unexplained delay. Further, the FIR (Ex.P13) was sent to the trial Court only on the next day at 11.00 A.M. 4.2. He further submitted that when the complaint (Ex.P1) is only vague, the statement of P.W.2 is completely an exaggeration as tutored by her father (P.W.1). The manner in which the victim (P.W.2) deposed reveals that a false complaint was foisted against the appellant. He also submitted that nothing was mentioned about the lock available in the classroom door in the Observation Mahazar (Ex.P4) and therefore, there was no possibility to invoke the offence of wrongful confinement under [Section 342](#) IPC which was not established.

4.3. Learned counsel further contended that the astrology teacher (P.W.13) had clearly deposed that he was not present to conduct the Page 6 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 class on that day. Therefore, the evidence of P.W.1, P.W.4, P.W.5 and P.W.14, who all deposed that they were present in the astrology class, are completely inconsistent and unbelievable. He further submitted that even the allegations in the complaint (Ex.P1) constitute only sexual assault under [Section 7](#) and certainly not aggravated sexual assault under [Section 9\(m\)](#) of the POCSO Act. Finally, he submitted that the accused was 61 years old at the time of the occurrence and now, he is aged 68 years and therefore, sought for the interference of this Court.

5.1. Per contra, learned Government Advocate (Criminal Side), appearing for the State contended that the complaint (Ex.P1) and the statement of the victim (P.W.2) recorded under [Section 164](#) Cr.P.C., (Ex.P3) along with the evidence of the victim (P.W.2) before the Court is clear, cogent, by bringing out the sexual assault committed by the appellant/accused. The evidence of the victim (P.W.2), is also corroborated by the evidence of P.W.1 and further the evidence of the Member of the Child Welfare Committee (P.W.10) establishes the occurrence beyond any doubt.

5.2. Learned Government Advocate further submitted that though P.W.1 and P.W.2 were examined in January 2021, learned counsel for the appellant/accused refused to cross-examine them on the same day, which Page 7 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 was duly recorded by the trial Court. They were ultimately cross-examined only in July 2021. Therefore, an adverse inference can be drawn against the defence and the minor contradictions pointed out by the appellant/accused has to be disregarded. Thus, the trial Court, upon finding that the prosecution had established the foundational facts, rightly invoked the statutory presumption under [Section 29](#) of the POCSO Act and convicted the accused, imposing an adequate sentence which calls for no interference by this Court.

6. Heard the rival submissions and considered the materials available on record.

7. The appellant/accused was convicted of offences under [Section 9\(m\)](#) read with [Section 10](#) of the POCSO Act and [Section 342](#) IPC for committing aggravated sexual assault on the victim (P.W.2), aged 10 years, studying 5th standard at Sishya School, Hosur. To invoke the provisions of [POCSO Act](#), the victim must be a child, below the age of 18 years, as per [Section 2\(d\)](#) of the POCSO Act. If the sexual assault is committed on a child below the age of 12, it constitutes an offence of aggravated sexual assault under [Section 9\(m\)](#). As held by the Hon'ble Supreme Court in *Yuvaprakash v. State of T.N.* [(2024) 17 SCC 684], the procedure prescribed for determining the age of the accused Page 8 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 under [Section 94](#) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (in short "the [JJ Act](#)"), is to be applied for determining the age of the victim also.

8. In view of the aforesaid provision and as held by the Hon'ble Supreme Court, the certificate issued by the School or Board shall be considered at the first instance to determine the age of the victim. The victim girl (P.W.2) was 10 years old and studying in V standard at Sishya School. The Correspondent and Principal/PW8 of Sishya School, issued the certificate (Ex.P7) certifying the victim's date of birth as 21.10.2009. P.W.8 has clearly deposed that the victim's date of birth is recorded in Ex.P7 as 21.10.2009 and that she was studying in VI standard at the time of giving evidence. Therefore, from the certificate (Ex.P7) and the evidence of P.W.8, it is established that the date of birth of PW2 is 21.10.2009 and she was aged 10 years on the date of alleged occurrence i.e., on 24.11.2019.

9. The complainant/father (P.W.1) lodged the complaint (Ex.P1) stating that during school holidays, Tamil handwriting and astrology classes were being conducted in Shantiniketan School. While the victim (P.W.2) was attending Tamil handwriting class from 10 A.M. to 12 noon, her father (P.W.1) was attending the astrology class in adjacent Page 9 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 classroom. On 24.11.2019, the complainant/father (P.W.1) left her in the Tamil handwriting class at 10 A.M. and went to attend his astrology class in the adjacent classroom. At around 10.30 A.M., the victim (P.W.2) ran and came crying. Upon enquiry, she stated that the School Correspondent, under the guise of helping her search for a book, took her to a nearby room, locked the door, approached her from behind and hugged her tightly. Holding her hands, he kissed her cheek and attempted to assault her, however, she pushed his hands away and escaped. Immediately thereafter, the complainant/father (P.W.1) contacted the child helpline at 1098.

10. In the statement of the victim (P.W.2) recorded under [Section 164\(5\)](#) Cr.P.C in Ex.P3, she narrated that she used to go to Shantiniketan Matriculation School on every Sunday to attend Tamil handwriting class along with her father, who had joined the astrology class conducted in the same school. Her father's class begin at 9.30 A.M., whereas her class commences at 10.30 A.M. While she attended the class on 24.11.2019 and was searching for her book, the accused informed her that the book would not be available there and led her to a nearby room. In that room, she found a Tamil book and took it to verify her name. At that moment, the accused came from behind, hugged her, touched and pressed her chest and forced her to turn, kissed her on the cheek. The accused then Page 10 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 threatened her, asking if she would inform her father. When she replied that she would inform her father, the accused held her tightly. Due to the pain, she tried to get away and when she tried to open the room, the accused caught her by the elbow but however, she managed to push him away, escaped and immediately reported this incident to her father.

11. PW2 in her testimony deposed narrating the entire incident of sexual assault committed by the accused in line with her statement in Ex.P3. After the chief examination of P.W.2, the defense counsel refused to cross-examine her on the same day, in spite of the trial Court insisting that the cross-examination has to be done on the same day as directed by the Hon'ble Supreme Court. The reluctance of the defence counsel to cross-examine PW2 on the same day was recorded by the trial Court and ultimately, P.W.2 was cross-examined only on 20.07.2021, after nearly seven months. However, in spite of such delay, P.W.2 stood the rigor of cross-examination and remained consistent with her evidence.

12. The statement of the complainant/father (P.W.1) was also recorded under [Section 164](#) Cr.P.C. as Ex.P2 on 02.12.2019 itself. In his statement, P.W.1 stated that he had accompanied his daughter (P.W.2) to Shantiniketan School for her Tamil handwriting class, where he had also joined the astrology class. On 24.11.2019, after leaving her daughter in Page 11 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 the handwriting class, he went to attend his astrology class. While P.W.2 was searching for her book, the Correspondent of the Shantiniketan School led her to a nearby room and committed sexual assault.

13. The complainant/father (P.W.1) was examined in-chief on 21.01.2021, wherein he deposed that his daughter (P.W.2) was born on 21.10.2009 and was studying in V standard at the time of occurrence. P.W.2 used to attend a Tamil handwriting class at Shantiniketan Matriculation School every Sunday at 10 A.M. Since PW1 had been waiting there for nearly two hours every week for three weeks, he was advised to attend an astrology class, which would be helpful for his daughter. Accordingly, he joined the astrology class. On 24.11.2019, he left his daughter (P.W.2) at her handwriting class and proceeded to attend his astrology class. At around 10.30 A.M., his daughter came to him weeping. Upon enquiry, she informed him that while she was searching for her book in the classroom, the Correspondent of the Shantiniketan School led her to a nearby room, locked the door from inside, approached her from behind, hugged her, kissed her, pressed her breast and threatened her not to reveal this incident to her father. When she opposed, he attempted to remove her pant. While he continued to hold her elbow, she falsely assured him that she would not inform her father. The moment he released his grip, she pushed him away and Page 12 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 escaped from the room.

14. P.W.1 further deposed that he was attending the class along with P.W.4, P.W.5 and P.W.14. After his daughter (P.W.2) came and narrated the incident, Nirmala (P.W.4) informed the child helpline. Subsequently, Member of the Child Welfare Committee (P.W.10) called P.W.1 and enquired. Thereafter, P.W.1 lodged a complaint and he was also produced before the learned Magistrate on 02.12.2019, where his statement was recorded under [Section 164](#) Cr.P.C in Ex.P2. Following the completion of the examination-in-chief, the defence counsel refused to cross-examine P.W.1 on the same day, which was duly recorded by the trial Court. Ultimately, the cross-examination was done only after seven months on 20.07.2021, but however P.W.1 withstood the rigour of cross-examination and nothing adverse was elicited.

15. P.W.3, the mother of the victim girl, deposed about her daughter attending the class and the incident as narrated to her, by her daughter (P.W.2). The cross-examination of P.W.3 was also conducted only after seven months by the accused.

16. Nirmala (P.W.4) deposed that she had attended the astrology class along with P.W.1. They had gone to the class at 10 A.M. on Page 13 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 24.11.2019 and P.W.1 joined the class after leaving his daughter at her handwriting class. After half an hour, the victim girl (P.W.2) came crying and upon P.W.1's inquiry, she narrated the incident, stating that the accused had, under the guise of helping her to find the book, committed sexual assault. Following this narration, P.W.4 called the child helpline 1098 and reported the matter. The defence counsel refused to cross-examine P.W.4 also on the same day and she was subsequently cross-examined after a period of seven months. However, nothing adverse was elicited during her cross-examination.

17. P.W.5 and P.W.14 deposed that they had attended the astrology class along with P.W.1. On 24.11.2019, after about half an hour, at around 10.30 A.M., the victim (P.W.2) ran and came crying from her handwriting class. Upon inquiry, she narrated the aforementioned incident. Immediately thereafter, P.W.4 contacted the child helpline number, pursuant to which P.W.10 arrived and inquired into the matter.

18. P.W.5 deposed that he along with P.W.4 had signed in the Observation Mahazar (Ex.P4). P.W.6 and P.W.9 deposed as witness to the arrest of the accused and the recording of his confession statement.

19. P.W.7, the Teacher of the handwriting class attended by P.W.2, Page 14 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 deposed that P.W.2 used to attend the handwriting class conducted by him at Shantiniketan School. On 24.11.2019, he arrived at the class only at 10.30 A.M. Upon entering, he noticed a large crowd. When enquired with P.W.1, he informed that the Correspondent, under the guise of helping P.W.2 to find a book, had committed sexual assault. At that juncture, P.W.12 advised him to leave the school as a problem was going on. Consequently, he immediately informed the parents of the other three students to take them home and left the premises. During cross-examination, he deposed that three students were present, when he arrived.

20. P.W.13, the teacher of the astrology class, deposed that P.W.1, P.W.4, P.W.5, P.W.11, and P.W.14 were all attending his class. He stated that P.W.1 had joined the astrology class in July 2019. Since he had gone to Chennai on 24.11.2019, he had instructed all the students who came to attend the class to revise the lessons taught in the previous session. He further deposed that P.W.2 was 10 years old and while he taught the astrology class, she used to attend the Tamil handwriting class in the adjacent classroom on Sundays, during which time P.W.1 would attend his astrology class.

21. P.W.17, the doctor who recorded the Accident Register Page 15 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 (Ex.P11), deposed that she had examined the victim and made the relevant entries in the register. She noted in the Accident Register about the sexual assault, observed no external injuries upon examination and recommended the victim for further medical evaluation.

22. P.W.21, the doctor who examined the victim, deposed that no injuries were found and the hymen was intact. The Medical Certificate (Ex.P14), the Final Opinion (Ex.P15), and the Biological Report (Ex.P16) were all issued by P.W.21. P.W.18, doctor deposed that he examined the appellant/accused and issued the potency certificate (Ex.P12).

23. P.W.20, the Sub-Inspector of Police, deposed that upon receipt of the complaint, she visited the spot, conducted the investigation, examined P.W.1 to P.W.5, and prepared the Observation Mahazar (Ex.P4) and rough sketch (Ex.P17). She further deposed that no CCTV cameras were available at the location. After recording the statements, she registered the FIR (Ex.P13) and send it to the Court.

24. P.W.22, the Inspector of Police, deposed that since P.W.20, the Sub-Inspector of Police, had already prepared the rough sketch (Ex.P17) and Observation Mahazar (Ex.P4) and found them to be in order, she proceeded with further investigation. She further deposed that no CCTV Page 16 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 cameras were found at the scene during the investigation. She stated about the investigation conducted, statements recorded, and the subsequent filing of the final report.

25. From the analysis of the evidence, it is seen that P.W.2, the victim had tendered clear and cogent evidence regarding the sexual assault committed by the appellant/accused. The complaint (Ex.P1) lodged by P.W.1 also specifically stated that the victim (P.W.2) had attended the handwriting class on 24.11.2019 and while she was searching for her book, the accused, under the guise of helping her, led her into a room, hugged her from behind, touched her, pressed her breasts and kissed her cheek. The complaint further mentioned that the appellant/accused held the victim girl tightly and threatened her against informing her father (P.W.1). When the victim girl tried to escape, she noticed that the door was locked. As she attempted to open the door, the accused held her elbow, however, by pushing him aside, she came crying to inform P.W.1 of the incident.

26. P.W.2, in her statement recorded before the learned Magistrate under [Section 164](#) Cr.P.C. (Ex.P3), clearly stated that on 24.11.2019, while she was attending the handwriting class and searching for her book, the accused committed the sexual assault. The victim clearly narrated the Page 17 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 entire incident in her statement (Ex.P3). The evidence of P.W.2 is in line with the statement given in Ex.P3 and the complaint (Ex.P1). The testimony of P.W.2 is clear, cogent, reliable, trustworthy and inspires the confidence of this Court regarding the sexual assault committed by the accused. Although the defence counsel refused to cross-examine P.W.2 on the same day and she was cross-examined after seven months, still P.W.2 was able to withstand the rigor of cross-examination and nothing adverse was elicited from her.

27. The evidence of P.W.1, the father of the victim girl (P.W.2), fully corroborates the testimony of P.W.2. P.W.1, who had joined the astrology class, left P.W.2 at her Tamil handwriting class at 10.00 A.M. At that time, the teacher (P.W.7) had not yet arrived, though the other three students were already present. P.W.1 then proceeded to attend his astrology class in the adjacent room. At around 10.30 A.M., P.W.2 came crying and narrated the incident regarding the sexual assault committed by the accused in the presence of the other persons attending the astrology class. PW1 had in his statement before the learned Magistrate (Ex.P2) and in his testimony before the Court, had deposed clearly about the presence of PW1 and 2 in the Shantiniketan School on 24.11.2019 for attending the classes where the accused had committed the sexual assault on PW2.

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28. The evidence of P.W.4, corroborates with the evidence of PW1 and the victim (P.W.2) about the victim coming crying at 10.30 A.M. and narrating the incident of sexual assault committed by the accused. PW4 had further contacted the Child Helpline 1098 to report the incident of sexual assault.

29. The evidence of P.W.4, P.W.5, P.W.11, and P.W.14, who were all present along with P.W.1, clearly establishes as to the presence of P.W.1 and PW2 at the school and about the victim (P.W.2) narrating the incident of sexual assault. Further, the testimony of PW7, the Teacher of the handwriting class, who conducted classes for the victim (PW2) and three other children, deposing that on 24.11.2019, the victim (P.W.2) attended the class as usual, corroborates with the evidence of P.W.1 and P.W.2.

30. The testimony of P.W.13, the Teacher of the astrology class, establishes that P.W.1, P.W.4, P.W.11 and P.W.14 were all present, attending his class conducted at the Shantiniketan School and corroborates the fact that on 24.11.2019, since he had travelled to Chennai, he had called and informed the students who attended the class to read what was taught in the earlier session.

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31. The aforesaid evidences clearly establish the presence of P.W.1 and P.W.2 at the Shantiniketan School on 24.11.2019, where P.W.2 attended the handwriting class and P.W.1 attended the astrology class along with other witnesses and while P.W.2 was searching for a book, the accused, under the guise of helping her, had taken her to a nearby room and committed sexual assault.

32. P.W.21, the Doctor who examined the victim and issued the Medical Certificate (Ex.P14), even though deposed that no injury was found, however had made it clear that in view of the nature of the sexual assault committed, there was no necessity or possibility for any injury marks to be found.

33. From the evidence on record, it is established that the victim (P.W.2) was aged 10 years on the alleged date of occurrence and the sexual assault committed by the accused attracts the offence of aggravated sexual assault, under [Section 9\(m\)](#) of the POCSO Act. Once it is established that P.W.2 was aged 10 years on the date of occurrence, the contention of the learned counsel for the appellant/accused that the same would attract only an offence under [Section 7](#) of the POCSO Act amounting to sexual assault and not aggravated sexual assault under Page 20 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 [Section 9\(m\)](#) is totally misplaced and liable to be rejected.

34. It is the contention on the side of the appellant that when CCTV cameras were available in the school, the prosecution failed to bring in the materials from the CCTV footages, which would have falsified the prosecution's case. In this regard, the appellant/accused had marked Ex.D1 to Ex.D3, which are the proceedings of the school education authorities and some details regarding the purchase of the CCTV. However, nothing prevented the appellant from bringing in those materials, particularly, the CCTV footages to establish that the CCTV was in fact available and that the case as projected by the prosecution is false.

35. In view of the statutory presumption under [Section 29](#) of the POCSO Act, merely alleging that CCTV cameras were available is insufficient and the appellant/accused failed to produce any material to establish the presence of the CCTV and the recordings therein. The entire incident occurred at the school around 10.30 A.M. and was immediately reported to the child helpline. Consequently, PW10, a Member of the Child Welfare Committee, arrived at the school and conducted an enquiry, following which the FIR was registered on the very same day at 4.00 P.M. In such circumstances, the contention that there was a considerable delay is totally misplaced, as the incident was immediately reported and the FIR Page 21 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 was registered on the same day.

36. Apart from the corroborative evidence of P.W.1, P.W.4, P.W.5, P.W.11 and P.W.14 regarding their presence at Shantiniketan School on 24.11.2019 and the fact that the victim (P.W.2) came crying and narrated the incident, the testimony of P.W.2 alone sufficiently proves the sexual assault committed by the appellant/accused. The sole evidence of the victim (P.W.2) itself is sufficient to convict the appellant/accused, as the testimony is reliable and of sterling quality. In this regard, it is appropriate to refer to the decision of the Hon'ble Supreme Court in Ganesan vs. State, Rep. by the Inspector of Police [(2020) 10 SCC 573], wherein it is held as follows:

“10. In the present case, the appellant-accused has been convicted by the learned trial court for the offence under [Section 7](#), punishable under [Section 8](#) of the POCSO Act. We have gone through the entire judgment passed by the learned trial court as well as the relevant evidence on record, more particularly the deposition of PW 1 father of the victim, PW 2 mother of the victim and PW 3 victim herself. It is true that PW 2 mother of the victim has turned hostile.

However, PW 3 victim has fully supported the case of the prosecution. She has narrated in detail how the incident has taken Page 22 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 place. She has been thoroughly and fully cross-examined. We do not see any good reason not to rely upon the deposition of PW 3 victim.

PW 3 aged 15 years at the time of deposition is a matured one. She is trustworthy and reliable. As per the settled proposition of law, even there can be a conviction based on the sole testimony of the victim, however, she must be found to be reliable and trustworthy.

10.1. Whether, in the case involving sexual harassment, molestation, etc., can there be conviction on the sole evidence of the prosecutrix, in [Vijay.\[Vijay v. State of M.P.\]](#), (2010) 8 SCC 191 : (2010) 3 SCC (Cri) 639], it is observed in paras 9 to 14 as under :

“9. In [State of Maharashtra v. Chandraprakash Kewalchand Jain \[State of Maharashtra v. Chandraprakash Kewalchand Jain\]](#), (1990) 1 SCC 550 : 1990 SCC (Cri) 210] this Court held that a woman, who is the victim of sexual assault, is not an accomplice to the crime but is a victim of another person's lust and, therefore, her evidence need not be tested with the same amount of suspicion as that of an accomplice. The Court ob-

served as under :

“16. A prosecutrix of a sex offence cannot be put on a par with an accomplice. She is in fact a victim of the crime. [The Evidence Act](#) nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive Page 23 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. What is necessary is that the court must be alive to and conscious of the fact that it is dealing with the evidence of a person who is interested in the outcome of the charge levelled by her. If the court keeps this in mind and feels satisfied that it can act on the evidence of the prosecutrix, there is no rule of law or practice incorporated in the [Evidence Act](#) similar to Illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the court is hesitant to place implicit reliance on the testimony of the prosecutrix it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the prosecutrix must necessarily depend on the facts and circumstances of each case. But if a prosecutrix is an adult and of full understanding the court is entitled to base a conviction on her evidence unless the same is shown to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case disclose that the prosecutrix does not have a strong motive to falsely involve the person charged, the court should ordinarily have no hesitation in accepting her evidence.’

10. In [State of U.P. v. Pappu \[State of U.P. v. Pappu\]](#), (2005) 3 SCC 594 : 2005 SCC (Cri) 780] this Court held that even in a case where it is shown that the girl is a girl of easy vir-

tue or a girl habituated to sexual intercourse, it may not be a ground to absolve the accused from the charge of rape. It has to be established that there was consent by her for that particular occasion. Absence of injury on the prosecutrix may not be a factor that leads the court to absolve the accused. This [Court further held](#) that there can be conviction on the sole testi- Page 24 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 mony of the prosecutrix and in case, the court is not satisfied

with the version of the prosecutrix, it can seek other evidence, direct or circumstantial, by which it may get assurance of her testimony. The Court held as under :

‘12. It is well settled that a prosecutrix complaining of having been a victim of the offence of rape is not an accomplice after the crime. There is no rule of law that her testimony cannot be acted upon without corroboration in material particulars. She stands at a higher pedestal than an injured witness. In the latter case, there is injury on the physical form, while in the former it is both physical as well as psychological and emotional. However, if the court of facts finds it difficult to accept the version of the prosecutrix on its face value, it may search for evidence, direct or circumstantial, which would lend assurance to her testimony. Assurance, short of corroboration as understood in the context of an accomplice, would do.’

11. In [State of Punjab v. Gurmit Singh](#) [[State of Punjab v.](#)

Gurmit Singh, (1996) 2 SCC 384 : 1996 SCC (Cri) 316], this Court held that in cases involving sexual harassment, molestation, etc. the court is duty-bound to deal with such cases with utmost sensitivity. Minor contradictions or insignificant discrepancies in the statement of a prosecutrix should not be a ground for throwing out an otherwise reliable prosecution case. Evidence of the victim of sexual assault is enough for conviction and it does not require any corroboration unless there are compelling reasons for seeking corroboration. The court may look for some assurances of her statement to satisfy judicial conscience. The statement of the prosecutrix is more reliable than that of an injured witness as she is not an accomplice. The Court Page 25 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 further held that the delay in filing FIR for sexual offence may not be even properly explained, but if found natural, the accused cannot be given any benefit thereof. The Court observed as under :

‘8. ... The court overlooked the situation in which a poor helpless minor girl had found herself in the company of three desperate young men who were threatening her and preventing her from raising any alarm. Again, if the investigating officer did not conduct the investigation properly or was negligent in not being able to trace out the driver or the car, how can that become a ground to discredit the testimony of the prosecutrix? The prosecutrix had no control over the investigating agency and the negligence of an investigating officer could not affect the credibility of the statement of the prosecutrix. ... The courts must, while evaluating evidence, remain alive to the fact that in a case of rape, no self-respecting woman would come forward in a court just to make a humiliating statement against her honour such as is involved in the commission of rape on her. In cases involving sexual molestation, supposed considerations which have no material effect on the veracity of the prosecution case or even discrepancies in the statement of the prosecutrix should not, unless the discrepancies are such which are of fatal nature, be allowed to throw out an otherwise reliable prosecution case. ... Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. ... Corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances.

21. ... The courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the state-

ment of the prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her Page 26 of 32

<https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 statement in material particulars. If for some reason the court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations.’ (emphasis in original)

12. In [State of Orissa v. Thakara Besra](#) [[State of Orissa v. Thakara Besra](#), (2002) 9 SCC 86 : 2003 SCC (Cri) 1080], this Court held that rape is not mere physical assault, rather it often distracts (sic destroys) the whole personality of the victim. The rapist degrades the very soul of the helpless female and, therefore, the testimony of the prosecutrix must be appreciated in the background of the entire case and in such cases, non-examination even of other witnesses may not be a serious infirmity in the prosecution case, particularly where the witnesses had not seen the commission of the offence.

13. In [State of H.P. v. Raghubir Singh](#) [[State of H.P. v. Raghubir Singh](#), (1993) 2 SCC 622 : 1993 SCC (Cri) 674] this Court held that there is no legal compulsion to look for any other evidence to corroborate the evidence of the prosecutrix before recording an order of conviction. Evidence has to be weighed and not counted. Conviction can be recorded on the sole testimony of the prosecutrix, if her evidence inspires confidence and there is absence of circumstances which militate against her veracity. A similar Page 27 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 view has been reiterated by this Court in [Wahid Khan v. State of M.P.](#) [[Wahid Khan v. State of M.P.](#), (2010) 2 SCC 9 :

(2010) 1 SCC (Cri) 1208] placing reliance on an earlier judg-

ment in [Rameshwar v. State of Rajasthan](#) [[Rameshwar v. State of Rajasthan](#), 1951 SCC 1213 : AIR 1952 SC 54] .

14. Thus, the law that emerges on the issue is to the effect that the statement of the prosecutrix, if found to be worthy of credence and reliable, requires no corroboration. The court may convict the accused on the sole testimony of the prosecutrix.” 10.2. In [Krishan Kumar Malik v. State of Haryana](#) [[Krishan Kumar Malik v. State of Haryana](#), (2011) 7 SCC 130 : (2011) 3 SCC (Cri) 61], it is observed and held by this Court that to hold an accused guilty for commission of an offence of rape, the solitary evidence of the prosecutrix is sufficient, provided the same inspires confidence and appears to be absolutely trustworthy, unblemished and should be of sterling quality.”

37. Even though the learned counsel for the appellant made submissions regarding minor discrepancies in the cross-examination, as referred earlier the defense had failed and refused to cross-examine P.W.1 to P.W.5 on the same day and the cross-examination was done Page 28 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 after seven months on which adverse inference is to be drawn. However the witnesses, particularly, P.W.1 and P.W.2 had withstood the rigor of cross-examination and nothing adverse has been elicited. In such circumstances, the minor discrepancies as pointed out by the learned counsel for the appellant is baseless and does not affect the case of the prosecution.

38. It is to be noted that the victim (P.W.2), apart from attending her regular school, showed a keen interest in self-improvement by attending Tamil handwriting classes at Shantiniketan School during holidays, specifically every Sunday from 10:00 A.M. to 12:00 noon. The victim with great aspirations, went to the school where she felt safe and secure, accompanied by her father (P.W.1), who was attending an astrology class in an adjacent classroom. The appellant/accused being the School Correspondent was duty-bound to protect all students on his premises but however he himself has indulged in the sexual assault on the minor child.

39. The sexual assault committed by the appellant/ accused, who was the correspondent of the school, upon the victim aged ten years, cannot be brushed aside lightly. Due to the acts committed by persons like the appellant/accused, the safe and secure atmosphere required for Page 29 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 children to attend schools and classes is compromised, causing great trauma to children and anxiety to parents. The argument that the appellant/accused was 61 years old at the time of the occurrence and is now aged 68 years does not appeal to this Court as a mitigating circumstance for modifying the sentence. The appellant/accused, despite being the School Correspondent and aged 61, did not hesitate to commit the crime of sexual assault on a ten year old child.

40. P.W.2 gave clear evidence in respect of the appellant/accused locking the room at the time of committing the sexual assault, where upon trying to escape, she found that the door was locked and even when she tried to open the lock, the appellant/accused held her again until she pushed him and ultimately escaped. Particularly, when no material was brought in by the appellant/accused to rebut the same, it is clear that the appellant/accused, by locking the door, had confined P.W.2 for the purpose of committing sexual assault. Therefore, [Section 342](#) IPC stands established.

41. On reappraisal of the entire evidence available on record, this Court does not find any illegality or perversity in the findings arrived at by the trial Court warranting interference.

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42. In view of the above, the conviction and sentence imposed by the trial Court on the appellant/accused stands confirmed. Accordingly, the criminal appeal is dismissed. The trial Court shall take steps to secure the appellant/accused to serve the remaining period of sentence, if any.

09.10.2026 Index : Yes Neutral Citation : Yes gya Page 31 of 32 <https://www.mhc.tn.gov.in/judis> 2026:MHC:4179 CrI.A.No.1235 of 2022 G.ARUL MURUGAN, J.

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1.The Sessions Judge (Fast Track Mahalir Neethimandram) Krishnagiri

2.The Inspector of Police All Women Police Station Hosur, Krishnagiri District (Crime No.21/2019)

3.The Public Prosecutor Madras High Court Chennai 600 104 Pre-Delivery Judgment in CrI.A.No.1235 of 2022 .10.2026 Page 32 of 32 <https://www.mhc.tn.gov.in/judis>