



CrI.R.C.No.568 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	01.06.2023
Pronounced On	04.09.2023

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CrI.R.C.No.568 of 2019

R.Kamaraj

... Petitioner

Vs

State Represented by
Sub Inspector of Police,
Mahalingapuram Police Station,
Mahalingapuram.
(Crime No.119/2012)

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 & 401 of the Code of Criminal Procedure, to set aside the order passed by the I Additional District and Sessions Judge, Coimbatore made in C.A.No.420 of 2017 dated 24.04.2019 as confirmed the sentencing the accused to undergo 2 years under Section 420 I.P.C and pay a fine of Rs.2,000/- i/d to undergo 6 months R.I and further undergo 6 months under Section 4 of Women Harassment Act further to pay fine Rs.1,000/- i/d to undergo 3 months R.I. and the sentence will be run concurrently by an order dated 20.11.2017 passed by the learned Judicial Magistrate No.II, Pollachi in C.C.No.46 of 2013 and acquit the petitioner/accused.



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For Petitioner : Mr.G.T.Subramanian

For Respondents : Mr.V.J.Priyadarsana

Government Advocate

ORDER

This Criminal Revision Petition has been filed seeking to quash the order passed by the I Additional District and Session Judge, Coimbatore made in made in C.A.No.420 of 2017 dated 24.04.2019 as confirmed the sentencing the accused to undergo 2 years under Section 420 I.P.C and pay a fine of Rs.2,000/- i/d to undergo 6 months R.I and further undergo 6 months under Section 4 of Women Harassment Act further to pay fine Rs.1,000/- i/d to undergo 3 months R.I. and the sentence will be run concurrently by an order dated 20.11.2017 passed by the learned Judicial Magistrate No.II, Pollachi.

2. Convicted sole accused is the Revision Petitioner herein.

3. The respondent/police filed charge sheet in Crime No.119 of 2012 alleging that the petitioner herein had promised to marry the de-facto complainant/P.W.1 Mary Pushina as a second wife and accordingly, made her to believe that he will marry her and obtained a house property worth about



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Rs.30,00,000/- in his name. Subsequently, when the de-facto complainant asked to re-convey the property, he refused to marry her and criminally assaulted her and accordingly alleged to have committed offences under Section 480 I.P.C. read with Section 4 of the Tamil Nadu Prohibition of Women's Harassment Act, 2002.

4. De-facto complainant was examined as P.W.1 and the co-worker of P.W.1 is examined as P.W.2, P.W.3 & 4 are the neighbours who had conducted the panchayat, P.W.6 is the person who has witnessed the panchayat. P.W.7 is the attester of the sale deed executed by the P.W.1 in favour of the accused as he promised to marry, for which that purpose Ex.P5 sale deed was executed and after that the accused refused to marry her. P.W. 8 and 9 are the attestors of the observation mahazar is a scribe of the document. P.W.11 is the Sub-Registrar who had registered the document and P.W. 12 and 13 are the police witnesses who had conducted the investigation and filed the charge sheet.

5. The learned trial Judge, Judicial Magistrate-II, Pollachi, after consideration has come to an conclusion that the accused has made a promise and committed an offence and even at the time of making the promise, he had intention to deceive her and accordingly, laid the conviction and was convicted



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and sentenced as stated supra.

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6. Aggrieved against the said order he had preferred an appeal in Crl.A.No.420 of 2021, on reconsideration of the evidence and on re-appreciation of the documents, it has come to an conclusion that the finding rendered by the trial Court is just and fair and accordingly, dismissed the appeal and hence the present Revision.

7. The learned counsel for the petitioner submitted that the initial FIR was initially closed as mistake of fact and subsequently, the very same complaint was given and further stated that there is an inordinate delay of four years in filing the FIR. He further contended that the quantum of sentence granted by both the Courts below is excessive and exorbitant.

8. Heard the learned counsel for the Revision Petitioner and the learned Government Advocate appearing for the respondent and perused the material documents available on record before this Court.

9. On perusal of the documents, it is seen that during the year 2008, the P.W.1-Mary Pushina and the accused were moving together and she was a



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widow and the accused promised to marry her and based on the said promise, the accused demanded her to transfer the property worth more than Rs.30,00,00/- in his name, for the consideration of the promise without passing on any monitory consideration, the P.W.1 executed Ex.P.5, Sale Deed which was attested by P.W.7 and registered by P.W.10 Sub-Registrar. Thereafter, he failed to marry her. On coming to know about the fact that she was deceived, filed a complaint; based on which the village panchayat was conducted by the P.W. 5 and P.W.6, which was attended by P.Ws.2, 3 and 4. During the enquiry, P.W.3 has categorically stated that

“அசா.3 யைப் பொறுத்த வரை, "தான் சமாதானம் பேசிய மேரியோ, அவரது மகளோ 6 மாதம் என்னிடம் வந்து இருந்தால் மீண்டும் அந்த இடத்தை அவருக்கு எழுதிக் கொடுத்து விடலாம் என்று சொன்னார்””

10. The version of P.W.1 is that on accused promise to marry, she had executed the sale deed without any monitory consideration which was corroborated with the evidence of P.W.2, co-worker of P.W.1. With regard to conduct of the panchayat, P.W.3, P.W.4 and P.W.5 have supported to the case of the prosecution. The document in question namely Ex.P5 was admittedly registered by P.W.11 Rajendran, Sub-Registrar. Both P.W.7, the attestor of the Sale Deed and P.W.10, the scribe of the Sale Deed had categorically state that



since, the de-facto complainant and first accused were living as husband and wife, no sale consideration was passed under the Sale Deed.

11. It remains to be stated that, based upon the evidence of P.W.1 coupled with the evidence of P.W.3 and 4 and with the regard to non-passing of consideration as spoken to by P.W.7 and 10, the trial Court has held that the prosecution has proved the charges beyond reasonable doubt and accordingly laid the conviction and passed the sentence therefor.

12. Learned counsel for the Revision Petitioner contended that the suggestive case of the defence as stated under the questioning under Section 313 Cr.P.C. was not considered by both the Courts below in the proper prospective. This Court has given due consideration for the said contention.

13. On perusal of the lower Court records, I find that during the questioning under Section 313(1) (b)Cr.P.C., the accused has stated that he had obtained L.I.C. loan by pledging the house owned by him and thereafter, he sold the land to one Thaiyalammal, with the sale consideration he had purchased the property from P.W.1. At this juncture, it remains to be stated as per Ex.D1 document, when de-facto complainant lodged a complaint; during



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the police enquiry, the accused has addressed a letter to the Superintendent of Police, whereby, he had stated that he had entered into an agreement of sale with one Thiyalammal on 09.09.2008 and thereafter, he raised Provident Fund From his office and also claimed loan from the L.I.C. document and thereafter, he paid the amount. The sale consideration as reflected in Ex.P.5 Sale Deed is Rs.30,50,000/-. There is a positive evidence before this Court in the manner of P.W.7 and P.W.10 who are admittedly the attestor and scribe of the Sale Deed to show that there was no passing of consideration.

14. The stand of the accused under Ex.D1 is that he entered into an Agreement of Sale with one Thaiyalammal and raised P.F. and also by pledging L.I.C. Policy. However, while questioning under Section 313 Cr.P.C. He could say that he had sold the property to the said Thaiyalammal. Neither the alleged sale agreement or sale deed, said to have entered between accused and said Thaiyalammal, not marked before the Court.

15. Therefore, I find that the plea of the defence is inconsistency and the same is not supported by any evidence. Hence, it does not reserve any consideration and accordingly, stands negative and as the accused failed to rebut presumption. Both the Courts below has rightly laid the conviction and



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the conviction of the trial Court is hereby confirmed. On the point of quantum of sentence, I find that with regard to the gravity of the offence proved under the manner known to law, I find that two years of sentence awarded for Section 4 of Tamil Nadu Prohibition of Women's Harassment Act, 2002 is reduced to one year. With regard to the quantum of the Sentence under Section 4, the evidence of P.W.3, I find that the petitioner has conducted himself so derogative of the women and hence, I am not inclined to reduce the sentence of 6 months R.I. granted to the petitioner. Both the sentences shall run concurrently.

16. Accordingly, this Criminal Revision is partly allowed to the limited extent as stated above. No costs. Consequently, connected miscellaneous petition is closed.

04.09.2023

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
gba

To

- 1.The I Additional District and Sessions Court,
Coimbatore.
- 2.The Judicial Magistrate No.II, Pollachi
- 3.The Sub Inspector of Police,
Mahalingapuram Police Station,Mahalingapuram.



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(Crime No.119/2012)

4. The Public Prosecutor,
High Court of Madras, Madras.

RMT.TEEKAA RAMAN, J.

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A Pre-delivery order made in

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