

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2015

CORAM:

THE HON'BLE MR.JUSTICE P.DEVADASS

CrI.A.No.180 of 2015

And

M.P.No.1 of 2015

Senthil

... Appellant

Vs.

State by
Inspector of Police,
B6 Peelamedu Police Station,
(Cr.No.1690/2010)
Coimbatore

... Respondent

Prayer :

Criminal Appeal filed under Section 374(2) of the Code of Criminal Procedure, seeking to set aside the conviction and sentence passed by the learned Mahila Judge of Coimbatore in S.C.No.210 of 2013 dated 10.03.2015, allow this appeal, acquit the appellant.

For Appellant : Mr.K.Gangadaran

For Respondent : Mr.P.Govindarajan
Additional Public Prosecutor

JUDGMENT

The sole appellant/A1 challenges his conviction and sentence in this criminal appeal.

2.Appellant/A1 and P.W.1 are closely related. Both are known to each other. Appellant liked to marry her. But, her parents refused. In the circumstances, on 31.12.2010 appellant tried to kidnap her with the assistance of his friends, namely, A2 and A3. But it had failed. Thus they have been prosecuted also for a charge under Section 366 r/w.511 I.P.C. The appellant pleaded not guilty. Prosecution examined P.Ws.1 to 6. He was examined on the incriminating aspects in prosecution evidence.

3.Ultimately, appreciating the evidence, the Trial Court convicted the appellant under Section 366 r/w.511 I.P.C. to 1 year R.I. and fined Rs.5,000/- in default 3 months S.I.

4.Now, the learned counsel for the appellant confined his submissions only to sentence aspect. The learned counsel for the appellant contended that the appellant has subsequently married a

girl and she is nine months pregnant, in the circumstances, mercy may be shown to him.

5.The learned Additional Public Prosecutor submitted that what was awarded to him by the Trial Court is very minimum.

6.I have anxiously considered the rival submissions.

7.No-one is a born criminal. Just as past behind a saint a sinner too has a future. P.W.1 is closely related to the appellant. The appellant very much liked P.W.1 but she did not. The appellant's family asked P.W.1's family to give P.W.1 in marriage to appellant. But P.W.1 flatly refused it. Under the circumstances, with the assistance of A2 and A3 appellant/A1 tried to kidnap her. But the intelligent girl/ P.W.1 raised hue and cry and alarm. Appellant's plan drew a blank. In the circumstances, appellant has been punished for attempt to kidnap her.

8.Appellant is 30 years old. A man has given his daughter in marriage to him. She is going to deliver a child very shortly. Appellant is going to be a father. Eye for eye, truth for truth is not a basis of sentencing policy. Now, this time the appellant would have realized his folly in not winning the heart of the girl not by force. Love can be at first sight, but it cannot be by kidnap. Love is a matter of hearts not by carrying a girl in a van. Now, future of the wife of the appellant and the child to be shortly born are also involved. Human aspect is also involved.

9.In the circumstances, the rigour of punishment can be diluted. In the circumstances, this criminal appeal is allowed in part. The conviction under Section 366 r/w.511 I.P.C. is maintained. The sentence of fine is also maintained. Period of sentence is reduced to 43 days. It is also set off under Section 428 of Cr.P.C. The modified sentence shall be sent to the Central Prison, Coimbatore. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

pri

To

1.The Inspector of Police,
B6 Peelamedu Police Station,
Coimbatore

2.The Public Prosecutor
High Court, Madras.

3. The Mahila Judge, Coimbatore.

4. The Superintendent Central Prison, Coimbatore.

+ 1 cc to Mr.K. Gangadaran, Advocate SR.20970

Crl.A.No.180 of 2015
And
M.P.No.1 of 2015

NM(CO)
Eu 23.04.15



WEB COPY