

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Crl.Revision Case No.194 of 2010

Manivel

.. Petitioner/Accused

Versus

Inspector of Police
All Women Police Station,
Pollachi,
Coimbatore District.

.. Respondent/Complainant

Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C. against the order dated 18.01.2010 passed in C.A.No.101 of 2009 on the file of the learned Principal District and Sessions Judge, Coimbatore confirming the conviction passed in C.C.No.572 of 2005 on the file of the learned Judicial Magistrate No.I, Pollachi dated 27.07.2009.

For Petitioner : Mr.B.Nambiselvan

For Respondent : Mr.V.Arul (G.A)

ORDER

The petitioner is the accused in C.C.No. 572 of 2005 on the file of Judicial Magistrate No.I, Pollachi and he has been convicted for the offence under Section 420 IPC and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.3,000/- and in default, to undergo simple imprisonment for three months. As against the conviction and sentence imposed, the petitioner filed Crl.Appeal No.101 of 2009 and the first appellate Court, by judgment dated 18.01.2010, had confirmed the conviction and sentence imposed by the Trial Court. Aggrieved by the same, the present Criminal Revision Case is filed.

2. The case of the complainant is that the accused on a false promise that he will marry her, had misused her modesty and on account of which, she became pregnant and given birth to a male child and thereby, the accused committed an offence under Sections 417 and 420 of IPC. Hence a complaint had been lodged against the accused before the respondent herein. When the same was taken cognizance by the learned Judicial Magistrate No.I, Pollachi, the accused was convicted and sentenced to undergo two years rigorous imprisonment and to pay

fine of Rs.3,000/- in default to undergo three months simple imprisonment. Aggrieved against the same, the accused preferred an appeal in C.A.No.101 of 2009 and the learned Principal District and Sessions Judge, Coimbatore, had confirmed the conviction and sentence imposed on the revision petitioner. Against which, this Criminal Revision has been preferred.

3. Learned counsel appearing for the petitioner/accused would contend that the defacto complainant gave birth to the child on 09.02.2004, whereas, the complaint itself was given after three years from the said date and the said fact is evident from the evidence of P.W.2/mother of the victim. P.W.2 had stated that they gave the complaint before the respondent police nearly 2 ½ years after the occurrence and that the child was 2 ½ years old at that time. It is also contended by the learned counsel that the offence under Section 420 of IPC has been made out as against the petitioner herein but, the findings of the trial court are contrary to the mandatory provisions of the proviso to Section 420 of IPC. He would further contend that the petitioner is the sole bread winner of the family and that if he is incarcerated for the further period, his family would be put to financial crunch and loss and hence, prayed for leniency in awarding the sentence.

4. Learned Government Advocate (Criminal side) in all fairness would submit that though the Appellate Court had confirmed his conviction and sentence awarded by the trial court, that the case of the petitioner may be considered.

5. Heard both sides and perused the records.

6. On a careful consideration of the judgments passed by both the courts below it is seen that the accused had cheated the complainant. However, taking into consideration the family circumstances of the petitioner herein, this Court is of the view that modification of the sentence awarded to one of payment of compensation to the complainant would meet the ends of justice.

7. Accordingly, this court while confirming the conviction for the offence under Section 420 of IPC, modifies the sentence to one of payment of compensation of a sum of Rs.1,00,000/- (Rupees One Lakh Only) to the defacto complainant within a period of four weeks, from the date of receipt of a copy of this order. It is made clear that the said amount shall be deposited in the fixed deposit in the name of the child, till he attains majority in any one of the nationalised banks and the defacto complainant is entitled to withdraw the interest accruing, once in three months. It is further made clear that in the failure of depositing the above compensation amount by the petitioner herein, the sentence imposed on the accused will hold good and the trial court is directed to secure the accused to undergo the remaining period of sentence.

8. With the above modification, the Criminal Revision Case is partly allowed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To,

- 1.The Principal District and Sessions Judge, Coimbatore
2. The Judicial Magistrate No.I, Pollachi
3. Inspector of Police, All Women Police Station,
Pollachi,Coimbatore District.
4. The Public Prosecutor, High Court, Madras.
5. The Chief Judicial Magistrate, Coimbatore.

+1 cc to Mr.B.Nambiselvan, Advocate, sr.52279

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