

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.408 of 2010

Rangasamy

... Petitioner/Accused

vs.

State by Inspector of Police,
Varapalayam (Crime No.35/2006)
Gobichettipalayam Taluk.

... Respondent/Complainant

Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C., against the order of learned Additional District and Sessions Judge (Fast Track Court No.II) at Gobichettipalayam in C.A.No.145 of 2009 dated 17.03.2010 confirming the conviction passed by learned principal Assistant Sessions Judge, Gobichettipalayam in C.C.No.77 of 2008 dated 04.08.2009.

For Petitioner : A.K.Kumarasamy

For Respondent : Mr.C.Iyyapparaj,
Government Advocate
(Crl. Side) [R1]

O R D E R

This revision arises against two concurrent judgments of Courts below convicting the petitioner for offences u/s.376(1) r/w 511 and 324 IPC and sentencing him to undergo 5 years R.I. and fine of Rs.1,000/- i/d 3 months S.I. for the first offence and 6 months R.I. for the second.

2. The case of the prosecution is that on 16.05.2007 at about 06.15 p.m., P.W.1 was grazing goats close to a sugarcane field. Petitioner/accused ran towards her, held her and pushed her into a canal and despite P.W.1's attempt to ward her off, the petitioner/accused attempted to rape her. The blouse of P.W.1 having been torn off and the petitioner/accused bit both breasts as also her thigh. Upon hearing the cries of P.W.1, P.W.2 came towards them, whereupon, the petitioner/accused ran away. A case was registered in Crime No.35 of 2007 on the file of the respondent and upon completion of investigation, a charge sheet was filed informing commission of offences under Sections 376 (1) r/w 511 and 324 IPC. The case was tried in C.C.No.77 of 2008 on the file of learned Principal Assistant Sessions Judge, Gobichettipalayam.

3. Before the trial Court, the prosecution examined eleven witnesses and marked nine exhibits and three material objects. None were examined on behalf of the defence nor were any exhibits marked. On appreciation of materials before it, the trial Court, under judgment dated 04.08.2009, rendered a finding of conviction for offences under Sections 376(1) r/w 511 and 324 IPC and sentenced the petitioner to undergo 5 years R.I. and fine of Rs.1,000/- i/d 3 months S.I. for offence u/s.376(1) r/w 511 IPC and 6 months R.I. for offence u/s.324 IPC. There against, the petitioner filed an appeal in C.A.No.145 of 2009 on the file of learned Additional District and Sessions Judge, Gobichettipalayam, which came to be dismissed under judgment dated 17.03.2010. There against, this revision.

4. Heard learned counsel for petitioner and learned Government Advocate [Crl.side].

5. Learned counsel for petitioner submits that P.W.1 in cross-examination had admitted to being an accused in a murder case and also having preferred complaints against several persons. P.W.3, her husband, had admitted to there having been a civil litigation between him and the accused. P.W.2 is the brother-in-law of P.W.1. In the said scenario, the petitioner stands implicated on a false complaint.

6. In the instant case, the case of the prosecution stands proved by the direct evidence of P.W.1, who has spoken to the acts of the accused and the injuries caused to her. P.W.2, who came running to safeguard P.W-1, has corroborated her evidence. The prosecution case is further strengthened by the evidence of P.W.6, Doctor, who examined P.W.1, on the very same date of occurrence and informed that she has suffered the injuries informed by her.

7. Considering the facts and circumstances, while confirming the conviction as also the sentence imposed for offence under Section 324 IPC, this Court would alter the sentence in respect of offence under Section 376 (1) r/w 511 IPC to one of 3 1/2 years R.I. Fine imposed by the trial Court is confirmed.

This Criminal Revision is disposed of with the above modification.

vsm

Sd/-
Assistant Registrar (C.O)

/True Copy/

Sub-Assistant Registrar

To

1. The Additional District and Sessions Judge
(Fast Track Court II),
Gobichettipalayam.
2. The Principal Assistant Sessions Judge,
Gobichettipalayam
3. The Public Prosecutor,
High Court, Madras
4. The Inspector of Police,
Varapalayam (Crime No.35/2006)
Gobichettipalayam Taluk.

+1 C.C. To MR.A.K.Kumarasamy, Advocate in SR.NO.67283

Crl.R.C.No.408 of 2010

CTK(CO)
sd : 27/01/2016



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