

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2016

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THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.R.C.No.1353 of 2015

Prasad

... Petitioner

VS

State rep. by:

The Inspector of Police,
W-9, All Women Police Station,
Villivakkam, Chennai.
(Crime No.7 of 2009)

... Respondent

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, to call for the records pertaining to the Judgment dated 10.12.2015 in C.A.No.183 of 2013 on the file of the XV Additional Sessions Judge, Chennai, confirming the judgment and sentence dated 20.08.2013 passed in C.C.No.424 of 2010 on the file of the Chief Metropolitan Magistrate Court, Egmore and set aside the same and consequently acquit the petitioner from all charges.

For Petitioner : Mr.R.Neethi Perumal

For Respondent : Mr.K.Madhan

Government Advocate (Crl.side)

ORDER

This revision is preferred against the judgment of learned XV Additional Sessions Judge, Chennai, passed in C.A.No.183 of 2013 on 10.12.2015 confirming the judgment of the learned Chief Metropolitan Magistrate, Egmore, Chennai, passed in C.C.No.424 of 2010 on 20.08.2013.

2. Totally, there are five accused in this case. The petitioner herein is the 5th accused. The petitioner and four others faced trial for offences u/s.498-A, 420, 406 and 506(ii) r/w 34 IPC and Section 4 and 6 of Tamil Nadu Prohibition of Women Harassment Act in C.C.No.424 of 2010 on the file of learned Chief Metropolitan Magistrate, Egmore, Chennai. The trial Court, while acquitting the Accused No.2 to 4, convicted the first accused for offences under Section 498-A and 406 IPC and sentenced him to two years rigorous imprisonment and fine of Rs.5,000/-, in default, six months simple imprisonment for the offence under Section 498-A IPC and one year rigorous imprisonment and fine of Rs.5,000/-, in default, six months simple imprisonment for offence under Section 406 IPC. The trial Court convicted the 5th accused/petitioner for offence under Section 4 of Tamil Nadu Prohibition of Women Harassment Act and sentenced him to one year rigorous imprisonment and a fine of Rs.5,000/-, in default, six months simple imprisonment. There against, petitioner moved C.A.No.183 of 2013 on the file of learned XV Additional Sessions Judge, Chennai. The lower Appellate

Court, under judgment dated 10.12.2014, dismissed the appeal, confirming the judgment of the trial Court. Hence, this revision.

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

4. Learned counsel for petitioner submits that in an act of vendatta, the defacto complainant/wife of the first accused had preferred a complaint roping in all the family members of her husband. The first accused is the husband, second accused, the mother-in-law, 3 and 4 accused are the sisters-in-law and petitioner/5th accused is husband of third accused. In the complaint, the defacto complainant had made an allegation that this petitioner has misbehaved with her and tried to outrage her modesty while her husband was away at office. In the course of her evidence, she has deposed that this petitioner so attempted to misbehave with her. Though she has informed that the wrongful act of the petitioner, was witnessed by neighbours, none have been examined. Learned counsel further submitted that the further evidence against the petitioner was that of P.W.2, the father of the defacto complainant. P.W.2 had merely spoken to the petitioner addressing the defacto complainant in an improper manner. Evidence of P.Ws.3 and 4 is to the effect that P.W.2/the father of the defacto complainant had informed them that

P.W.1 informed him that the petitioner misbehaved with her. Learned counsel submits that the evidence of P.Ws.1 and 2 would hardly inspire confidence while that of P.Ws.3 and 4 was hearsay. He submitted that even according to the prosecution, the alleged occurrence had taken place in the house of the defacto complainant. He relied upon Judgment of this Court reported in **CDJ 2012 MHC 2168 in ANBAZHAGAN Vs. STATE REP. BY INSPECTOR OF POLICE, PALLIKARANAI POLICE STATION, KANCHEEPURAM DISTRICT**, where it has been held as follows:-

“To attract the offence under Section 4 of Tamil Nadu Prohibition of Harassment Women Act,1998 offence must have taken place at a place particularly covered by the Section. A private dwelling house is not one of such places Section 4 of Tamil Nadu Prohibition of Harassment of Women Act,1998 reads as follows:

“4.penalty for(harassment or women) whoever commits or participates in or abets (harassment of women) in or within the precincts of any educational institution, temple or other place of worship, bus stop, road, railway station, cinema thereto, park, beach, place of festival, public service vehicle or vessel or any other place shall be punished with imprisonment for a term which may extend to three years and with fine which shall not be less than thousand rupees.”

This Court by its order dated 25.10.2010 in Crl.O.P.No.13501 of 2010 in Gouresh Mehra v. The State Rep. By Tr has held as follows:

“This Court is of the considered opinion that the words ' any other place' found in Section 4 are to be read 'ejusdem generis'. The Tamil Nadu Prohibition of Harassment of Women Act, 1998 when originally enacted consisted of 10 Sections and came into force on 30.07.1998. The offences under Section 4-A Harassment death, 4-B been included under subsequent amendments of the year 2002. Confining ourselves to the offence contemplated under Section 4 and looking into the objects and reasons of the enactment not towards informing ourselves of the amplitude of the Act but towards understanding the idea behind it, we find that the enactment was intended as a measure to eradicate eve teasing in public places. The Act while prescribing a penalty for harassment under Section 4 restricts the same to harassment committed at particular places. Proceeding further, we find, that under Section 5 and 6, responsibilities are cast upon persons in charge of educational institutions, temple or other places of worship, cinema theatre or any other precinct and upon the crew of public service vehicle or vessel. This Court considers it reasonable to hold that Section 4 of the Act was meant to deal with offences occurring in

the places informed or in places of like nature. If not so read, the mention of the particular places in Section 4 would be rendered redundant and such could have been the legislative intent. To put it differently, if the intent was to attract punishment for harassment at any and every places, Section 4 simply could have read as follows:

“4. Penalty for harassment of women-whoever commits or participates in or abets harassment of women in any place shall be punished.....

7. In Kochuni v. State of Madras and Kerala, AIR 1960 SC 1080, it has been explained that the rule of 'ejusdem generis' was that when general words follow particular and specific words of the same nature, the general words must be confined to the things of the same kind as those specified. It was further observed that it is clearly laid down by decided cases that the specific words must be form a distinct genus or category. It is not an inviolable rule or law, but it is only permissible inference in the absence of an indication to the contrary. In Lila Vati Bai v. State of Bombay, AIR 1957 SC 521, it is informed that the rule of 'ejusdem generis' is intended to be applied where general words have been used following particular and specific words of the same nature on the established rule of construction that the legislature presumed to use the general words in a restricted sense; that is to

say, as belonging to the same genus as the particular and specific words. Such a restricted meaning has to be given to words of general import only where the context of the whole scheme of legislation requires it. But where the context and the object and mischief of the enactment do not require such restricted meaning to be attached to words of general import, it becomes necessary to give a plain and ordinary meaning.”

5. Again, on facts this Court finds that the Trial Court has found the other relatives of the husband i.e his mother and sister not guilty. However, on the mere say so of the P.W.1/wife this petitioner stands convicted. The evidence of P.W.2/father of P.W.1 is only to the effect that the petitioner addressed P.W.1 in an improper manner. Though neighbours are said to have witnessed the occurrence none have been called. The evidence of P.Ws.3 and 4 is hearsay. In any even given the decision of this Court in Anbazhagan case (supra) conviction of the petitioner for offence u/s. 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 1998 would not hold good. For the above said reasons, the Criminal Revision Petition is allowed.

6. In the result, the Criminal Revision Case is allowed. The conviction and sentence passed by the both the courts below is set aside and the

petitioner is acquitted of all the charges levelled against him and bail bond, if any, executed by him shall stand cancelled and the fine amount paid by him is ordered to be refunded, forthwith.

21.10.2016

Index:yes/no
Internet:yes/no
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To

- 1.The Additional Judge,
XV Additional City Civil Court,
Chennai.
- 2.The Chief Metropolitan Magistrate,
Egmore, Chennai.

C.T.SELVAM, J.

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