

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2016

CORAM

THE HON'BLE MR. JUSTICE M.Venugopal

Crl.A.No.333 of 2016

Jayaraman

... Appellant

Vs.

State rep. by
Inspector of Police,
Takkolam Police Station,
Takkolam, Arakkonam Taluk,
Vellore District.

... Respondent

Criminal Appeal, filed under Section 374 (2) of the Code of Criminal Procedure against the judgment, dated 18.03.2016, passed in S.C.No.219 of 2013, on the file of the Sessions Judge, Magalir Neethi Mandram, (Fast Track Mahila Court) Vellore and to acquit the appellant.

For Appellant : Mr.B.Ramamoorthy
for Mr.M.Mohamed Hasain

For Respondent : Ms.M.F.Shabana
Government Advocate (Crl.Side)

JUDGEMENT

The Appellant/Accused has preferred the instant Criminal Appeal as against the judgment, dated 18.03.2016, made in S.C.No.219 of 2013, passed by the learned Sessions Judge, Magalir Neethi Mandram, (Fast Track Mahila Court) Vellore/Trial Court.

2. The trial Court, while passing the impugned judgment on 18.03.2016, in S.C.No.219 of 2013, at Para Nos.33 to 35, had observed as follows:-

" 33. Accordingly, in the case on hand too, no such extraordinary circumstance is seems to be visible for either disbelieve or disprove the evidence of P.W.1. Mere defence of non-corroboration of evidence of P.W.1 by the evidence of Dr., who medically

examined the virginity of P.W.1 is no way support the case of the Defence, because, corroboration is not the sine qua non for conviction in a crime of rape.

34. Thus, in view, in the case on hand, the material particulars of rape found in the complaint as well as in the testimony of the P.W.1 vividly established the fact of rape committed on her against her wishes.

35. Therefore, in the above said facts and discussions are being kept in mind, it cannot be disputed that the act of the accused would certainly constitute an offence of rape. "

3. Thus, by observing as such, the trial Court ultimately found that the Appellant/Accused is guilty of offence under Section 376 (1) I.P.C., and sentenced him to undergo rigorous imprisonment for seven years and further directed him to pay a fine of Rs.2,000/-, in default, to undergo two months simple imprisonment. Also, the trial Court had proceeded to observe in its judgement that the period of detention already undergone by the Accused shall be set off under Section 428 Cr.P.C.

4. Being dissatisfied with the judgment, dated 18.03.2016, made in S.C.No.219 of 2013, passed by the trial Court, the Appellant/Accused has focused the present Criminal Appeal, primarily contending that the trial Court had committed an error in convicting him under Section 376 (1) I.P.C., when admittedly, the complaint was given, and First Information Report (F.I.R.) was registered in respect of an alleged offence under Sections 417 and 506 (i) I.P.C..

5. The Learned counsel for the Appellant/Accused submits that, even as per the evidence of P.W.4, Dr.Mythili, who examined the victim girl/P.W.1, was not in a position to speak about her non virginity.

6. The Learned counsel for the Appellant/Accused takes a stand that the trial Court had failed to see that the victim girl/P.W.1 and the Appellant/Accused were taking over phone for more than 2 1/2 years. The Learned counsel for the Appellant/Accused projects an argument that the victim girl/P.W.1 before the trial Court had clearly deposed that she voluntarily allowed the Appellant/Accused to cohabit with her after stating that he was 19 years old.

7. It is represented on behalf of the Appellant/Accused that the trial Court had rendered a wrong finding that the Appellant/Accused had abducted P.W.1/victim girl. Moreover, it is projected on the side of the Appellant/Accused that the trial Court had grievously erred in arriving at the conclusion that P.W.1 was not competent to give a valid consent.

8. The Learned counsel for the Appellant/Accused relies on the decision of the Hon'ble Supreme Court, in the case of (Deepak Gulati Vs. State of Haryana) reported in (2013) 3 CTC 567, at special page Nos.568 and 569, whereby and whereunder, it is observed as under:-

" To conclude, the prosecutrix had left her home voluntarily of her own free will to get married to the appellant, she was 19 years of age at the relevant time and was, hence, capable of understanding the complications and issues surrounding her marriage to the appellant. According to the version of the events provided by her, the prosecutrix had called the appellant on a number given to her by him, to ask him, why he had not met her at the place that had been pre-decided by them. She also waited for him for a long time, and when he finally arrived she went with him to the Kama Lake, where they indulged in sexual intercourse. She did not raise any objection at this stage and made no complaints to any one. Thereafter, she also went to Kurushetra with the Appellant, where, she lived with his relatives. Hereto, the Prosecutrix voluntarily became intimate with the Appellant. She then, for some reason, went to live in the hostel at Kurukshetra University illegally, and once again came into contact with the Appellant at the Birla Mandir. Thereafter, she even proceeded with the Appellant to the old bus-stand in Kurushetra, to leave for Ambala so that the two of them could get married in Court at Ambala. However, here they were apprehended by the Police."

9. The Learned counsel for the Appellant/Accused cited the decision of the Hon'ble Supreme Court in the case of

(Narender Kumar Vs. State (NCT of Delhi) reported in (2012) 3 MLJ (Crl) 707 SC, wherein, it is held as under:-

"The given facts and circumstances, make it crystal clear that if the evidence of the prosecutrix is read and considered in totality of the circumstances along with the other evidence on record, in which the offence is alleged to have been committed, Court is of the view that her deposition does not inspire confidence. The Prosecution has not disclosed the true genesis of the crime. In such a fact-situation, the appellant becomes entitled to the benefit of doubt".

10. The Learned counsel for the Appellant/Accused seeks in aid, the decision of this Court in the case of (Hamsaveni Vs. The Inspector of Police, All Women Police Station, Tindivanam, and four others) reported in (2014) 1 MWN (Cr.) 146) at special page Nos.148 and 149, whereby and where under, at para Nos. 8 to 10, it is observed as follows:-

" 8. It is the argument of the learned counsel for the petitioner that since the consent was obtained by false representations and later he refused, the 1st accused is liable to be punished under Section 417 I.P.C. The learned counsel for the respondent would rely upon the oral testimony of P.W.1. The cross examination would show that P.W.1 has got knowledge about the consequence of earlier intercourse before marriage. Her cross examination goes thus:-

"ஒரு வயது வந்த ஆணும். பெண்ணும்
காதலிப்பது என்றால் என்ன என்று எனக்குத்
தெரியும். ஒரு வயது வந்த ஆணும். பெண்ணும்
உடலுறவு, கொள்வது என்றால் என்ன என்று
தெரியும், இந்த சாட்சி சொல்வதற்கு முன்பாக
நான் பலமுறை உடலுறவு, கொண்டுள்ளேன்,
திருமணமாகாத பெண் உடலுறவு, கொண்டால்
கர்ப்பம் தரித்தால் கெட்ட பெயர் ஏற்படும்
எனவும் தெரியும், பொதுவாக ஒரு பெண்
திருமணம் ஆவதற்கு முன் உடலுறவு
, கொள்ளக்கூடாது என்பது தெரியும், புகாரில்
காவல் நிலையத்தில் நான் கொடுத்ததில் என்ன

எழுதப்பட்டுள்ளது என்பது தெரியும், 2 வருடமாக காதலித்தேன், பலமுறை உடலுறவு, கொண்டுள்ளேன் என்று சொல்லியிருக்கிறேன், என்னுடைய விருப்பத்திற்கு விரோதமாக உடலுறவு, கொள்ள முடியாது என்றால் சரிதான், " .

9. The above said part of evidence would indicate that she is well aware of the consequences which would arise if sexual intercourse takes place before marriage. Learned counsel for the respondent taking advantage of this part of evidence cited a decision of Honourable Supreme Court reported in (2003) 4 SCC 46 [Uday v. State of Karnataka] wherein Their Lordships have observed as follows:

"The consensus of judicial opinion is in favour of the view that the consent given by the prosecutrix to sexual intercourse with a person with whom she is deeply in love on a promise that he would marry her on a later date, cannot be said to be given under a misconception of fact. A false promise is not a fact within the meaning of the Code. In the instant case, the prosecutrix was a grown-up girl studying in a college. She was deeply in love with the appellant. She was, however, aware of the fact that since they belonged to different castes, marriage was not possible. In any event the proposal for their marriage was bound to be seriously opposed by their family members. She admits having told so to the appellant when he proposed to her the first time. She had sufficient intelligence to understand the significance and moral quality of the act she was consenting to. That is why she kept it a secret as long as she could. Despite this, she did not resist the overtures of the appellant, and in fact succumbed to them. She thus freely exercised a

choice between resistance and assent. She must have known the consequences of the act, particularly when she was conscious of the fact that their marriage may not take place at all on account of caste considerations. All these circumstances lead us to the conclusion that she freely, voluntarily and consciously consented to having sexual intercourse with the appellant, and her consent was not in consequence of any misconception of fact."

10. After going through the above judgment, it has to be necessarily observed that consent was obtained by P.W.1 and in view of the above, the finding of the trial Court Judge is sustainable in law. There is no valid ground made out to interfere with the judgment of the trial Court which deserves to be confirmed and it is accordingly confirmed. The revision is devoid of merits. This point is answered as indicated above."

11. The Learned counsel for the Appellant/Accused invited the attention of this Court to the decision of the Hon'ble Supreme Court, in the case of (State of Madhya Pradesh Vs. Keshar Singh) reported in (2015) 3 MLJ Cr1 587 (SC), wherein, at special page Nos.590 and 591, at para No.9, it is observed as under:-

" We may note that PW3 had told about the accused inflicting knife blows in her examination in chief itself, and therefore, one cannot say she said so because of being misled by the cross-examiner. This is a major inconsistency in the testimony of both PW2 and PW3 which makes their statement unworthy of credit. Furthermore, the conduct of PW2 seems to be uncharacteristic of an uncle as he makes no mention of his raising any alarm or running towards the accused to apprehend him on seeing that the accused was sexually assaulting the prosecutrix. Also

the medical evidence of Dr. Mrs. F.A. Qureshi on analysis seems to be not wholly supportive to the case of the prosecution. Dr. Quershi has accepted that if the sexual intercourse has happened in last 24 hours, then on touching the hymen fresh blood must necessarily ooze out. In saying so, she has approved what is written in the Modi's book on Medical Jurisprudence. However, she testifies that when she touched the hymen of the prosecutrix, no fresh blood oozed out. This may be contrasted to the fact that allegedly, the medical examination of the prosecutrix was conducted within 12 hours of the alleged incident of rape. Had that been so, the prosecutrix must have bled fresh during the medical examination, but that did not happen. This shows that, probably, the sexual intercourse was done more than 24 hours back. In fact, Dr.Qureshi in her cross-examination has said that rupture of hymen was at the most 2-3 days prior to the medical examination. If this be so, the entire story of the prosecution would go out of the window. Further, there is another inconsistency to be found from the deposition of Dr.Qureshi. She has said in her statement that the girl she had examined was a healthy and 'normal' one. However, there is no dispute that the prosecutrix was far from normal as she was suffering from some mental disorder. Even when she was examined in Court, she was found to be of unsound mind. It would be highly unlikely and assumptuous on our part to say that even after conducting the whole examination of the prosecutrix, Dr.Qureshi may not have come to know of the mental disorder of the prosecutrix ".

12. In response, it is submission of the Learned Government (Crl.Side) for the Respondent/Prosecution that the trial Court had framed charges against the Appellant/Accused under Sections 366, 376 (1) and 506 (i) I.P.C., and after analyzing the entire available oral and documentary evidence on record and also perusing the exhibits marked on the side of the Prosecution, had come to the resultant conclusion that the Appellant/Accused was not guilty in terms of Sections 366 and 506 (i) I.P.C., but found him guilty under Section 376 (1) I.P.C. In short, the

trial Court had acquitted the Appellant /Accused in respect of offence under Sections 366 and 506 (i) I.P.C., and convicted him under Section 376 (1) I.P.C. and sentenced him to undergo Rigorous Imprisonment for seven years and further directed him to pay a fine of Rs.2,000/-, in default, to undergo two months Simple Imprisonment, and the same does not suffer from any legal infirmity in the eye of law. As such, the Criminal Appeal filed by the Appellant/Accused is liable to be dismissed by this Court, in the interest of justice.

13. At the outset, this Court very pertinently points out that in the final report, the Inspector of Police, Thakollam Police Station, had stated that the Appellant/Accused was in acquaintance with P.W.1 (victim girl) over two years and pursuant thereto, on 14.12.2012, at about 4.00 p.m , the Appellant/Accused invited P.W.1 over phone to a 'Bush', situated on the Southern Side of 'Murungai Erikarai' and thereby, abducted her and also he assured her on false promise that he would marry her. Although, she had refused, the Appellant/Accused had enticed her to have sexual intercourse and ravished her. Moreover, the Appellant/Accused had intimidated P.W.1 to the effect that, if she reveals the matter to anybody, he would do away with her and under these circumstances, the Appellant/Accused was alleged to have committed offence under Sections 366 and 376 (1) I.P.C., as P.W.1 had deposed before the trial Court that she and the Appellant/Accused are the residents of Thakkolam, and they had conversation over phone for the past 2 1/2 years, prior to the date of occurrence. Therefore, on 14.12.2012, at about 4.00 p.m, P.W.1, the victim went to the 'Murungai Erikarai' based on the call made by the Appellant/Accused over phone and the Appellant/Accused had asked P.W.1 victim to permit him to have sexual intercourse. When P.W.1 had informed the Appellant/Accused that the sexual relationship could only be had after marriage, inspite of the same, he compelled her and committed rape on her.

14. It is to be aptly pointed out by this Court that in the present case, although P.W.1 (in her chief examination) had stated that before the marriage, there should not be any sexual relationship, the same being a wrong one, and accordingly, she refused, inspite of her refusal on numerous times/occasions, she was ravished by the Appellant/Accused.

15. It is the evidence of P.W.2 (mother of the victim/P.W.1) that her daughter P.W.1 was in the house and the Appellant/Accused phoned up to P.W.1 and also asked her to come to 'Murugai Erikarai'. Further, informed that they can remain as husband and wife, but she informed that before marriage, it was wrong to be like that and further that the Appellant/Accused

had intimidated to spoil P.W.1, but she (P.W.1) refused to be like that, inspite of the same, he ravished her.

16. Added further, P.W.2 also stated that the Appellant/Accused had threatened P.W.1 to the effect that, if she reveals about this matter to anybody, she and her family would be finished, and after, 6.00 in the evening, when she returned from work along with her husband, P.W.1/victim informed her about the incident and on the next day, they went to the Police Station at 3.00 p.m and lodged a complaint.

17. P.W.2 proceeds to state in her evidence that she does not remember as to who had written the complaint, and she had not even asked her daughter, P.W.1 as to who had written the complaint, and till 4.00 p.m, the Appellant/Accused was enquired into by the Police, and that, the Appellant/Accused had informed the Police till 4.00 pm, that he would not marry her daughter, P.W.1.

18. P.W.2 also had in her evidence, deposed that her daughter P.W.1 gave a complaint at 3.00 p.m. and that they went to the Police Station at 3.00 p.m. and before that, her daughter gave her complaint by writing to the Thakollam Police Station, and when she to the Police Station, the Appellant/Accused was not there. Moreover, till 14th and 15th dates, the details of the Appellant/Accused calling her daughter P.W.1 to 'Murungai Erikarai', was not known to anybody else, except, she, her daughter/PW.1, and her husband.

19. P.W.3 in his evidence had stated that he was informed that P.W.1 was ravished by the Appellant/Accused under the pretext of marrying her and that the date of incident was 14.12.2012, and the Appellant/Accused had threatened P.W.1/victim that if she informs about this matter to outside, her family would be finished, and in regard to this, on the next day, a complaint was lodged, and in Ex.P.2, Observation Mahazar, the signature shown as a first one belonged to him, and second signature belonged to Yuvaraj, and further they were taken as witnesses to the Thakollam Murungaikarai Lake' by the Police and signatures were obtained from them on 15.12.2012, and that, he was examined by the Police.

20. P.W.3, (in his cross-examination) had deposed that Thakollam Police had asked him to come to the place of occurrence, and accordingly, he went there and the affected victim girl (P.W.1) was required to be shown the place of occurrence and he also had seen the place of occurrence and the place shown was a Bush area, and there was a cement pillar like structure at a height of about 3 feet and the same was buried inside.

21. It is the evidence of P.W.4 (Dr.) that she examined the victim/P.W.1, aged about 19 years old on 24.01.2013, and that she was unmarried, and she informed her that menstrual cycle was proper and the last periods date was 06.01.2013 and there was no evidence for abortion and she informed that she had sexual intercourse and at the time, when she (P.W.4) examined her, she was fit for having sexual intercourse, and at that time, she was not pregnant and her private parts, easily allowed two fingers. Significantly, P.W.4 in her cross-examination had stated that she cannot say definitely as to whether P.W.1 was a non virgin.

22. It is the evidence of P.W.5, Dr. Thangam Saviour that on 02.11.2013, the Appellant/Accused, Jayaraman, aged about 26 was brought before him by the Head Constable, (Venugopal) for conducting Potency Examination and after examining him, he gave a certificate that the Appellant/Accused was fit enough to have sexual intercourse, and, in this connection, he was examined by the Inspector of Police, and Ex.P.5 was issued by him.

23. P.W.6, (Sub Inspector of Police) in his evidence had stated that, on 15.12.2012, when he was on duty at 3.00 p.m. in the Police Station, the affected daughter of Mohan, appeared before the Women's Police Station, and lodged a complaint which was received by him, and he registered a case in Crime No.261 of 2012, for offence under Sections 417 and 506 (i) I.P.C. and Ex.P.6, was the First Information Report, registered by him and that, he was examined by the Inspector of Police.

24. P.W.7 (Inspector) in his evidence stated that the Sub Inspector of Police, Nagaraj had received a complaint and registered an FIR for offence under Sections 417 and 506 (i) I.P.C. and sent the victim girl to the medical examination through a Medical Memo, and that, he took up the investigation of the case, went to the place of occurrence and examined the Witnesses Varadan and Yuvaraj, and in the presence of Witnesses, prepared Ex.P.2/Observation Mahazar and also Ex.P.7/Rough Sketch, and later enquired/examined the affected girl (P.W.1), Mohan (father of P.W.1), and Jagada (mother of P.W.2), and recorded their statements and also arrested the Appellant/Accused and sent him to the Court and later prepared an Alteration Report, and changed the Sections to 366, 376 (1) and 506 (i) read with Section 4 of the POSCO Act, 2012 and the Alteration Report was Ex.P.8 and examined the Dr.Mythili (P.W.4), who examined P.W.1, medically and recorded her statement and also examined the Dr. Thangam Xavier, P.W.5, who conducted the medical examination on the Appellant/Accused and recorded his statement and after the completing the

investigation, filed a Final Report under Sections 366, 376 (1) and 506 (i) and Section 4 of the POSCO Act, 2012.

25. P.W.7, (in his cross-examination) had clearly mentioned that the Observation Mahazar was prepared on 15.12.2012 at 3.15 p.m. and the Rough Sketch was prepared at 3.30. p.m., and it was correct to state that the date mentioned in the Rough Map was corrected.

26. Insofar as charge under Section 366 I.P.C. was concerned, it is the evidence of P.W.1, the victim girl that 2 ½ years before the date of occurrence, she had acquaintance with the Appellant/Accused, and they used to take over phone, and on 14.12.2012, the Appellant/Accused phoned up to her and asked her to come to the 'Murungai Erikarai', and accordingly she went there. In the instant case, the victim was 19 years old, as per Ex.P.4, Medical Certificate 24.01.2013, and as such, since P.W.1 herself had proceeded to the Erikariai, because of the Appellant/Accused asking her to come to that place, it is crystal clear that there was no implement of force or coercion or compulsion or any deceitful means practiced by the Appellant/Accused, and as such, the charge of abduction under Section 366 I.P.C. was not made out by the Prosecution/Respondent and very rightly, the trial Court had rendered a finding in this regard, to which, this Court is in complete agreement with the same.

27. With regard to the aspect of offence under Section 376 (1) I.P.C. was concerned, the clear-cut of P.W.1/victim girl unerringly points out that she had refused by stating to the Appellant/Accused that before the marriage there should not be sexual intercourse, but inspite of her refusal the Appellant/Accused had ravished her. In this connection, this Court very relevantly points out that the crux of the offence under Section 376 I.P.C. is 'Rape'. Eventhough, in the instant case, on behalf of the Respondent/Prosecution, heavy reliance is placed on the evidence of P.W.4, Dr. Mythili to the effect that she was not in a position to say definitely as to whether P.W.1/victim is a non virgin and also in this connection, it also the stand taken on behalf of the Appellant/Accused that immediately after the purported occurrence, medical examination was not done, and only after 40 days, from the date of occurrence, Medical Examination was done, yet, this Court, is of the considered view that, as per Section 114 (a) of the Indian Evidence Act, 1872, if the prosecutrix had deposed/deposes that she had not given her consent to the act, then, the Court shall presume that she had not given her consent.

28. It is to be pointed out that the absence of any injuries on the person of complainant will not by itself discredit the statement of the complainant. It is to be remembered that a Prosecutrix complaining of being a victim of the offence of 'Rape' is not a 'Accomplice'. After the crime, the Prosecutrix of a sexual offence is a victim of crime. A conviction for 'Rape' depends upon the credibility of the woman. Insofar as the essential ingredients are concerned, the other evidence being corroborative in character, as a matter of fact, corroboration may be by facts and circumstances.

29. It is to be noted that the corroboration of testimony of the Prosecutrix by Medical Evidence was not an essential one. In the considered opinion of this Court, a sexual assault/offence is an invasion of 'Right of Privacy' and Sanctity of a woman's traumatic experience. Undoubtedly, it affects her dignity and self-esteem. In an offence of 'Rape', when a woman is ravished, a 'Deathless Shame' would haunt her during her lifespan.

30. The offence of 'Rape' is violation of victim's cherished fundamental rights, and in reality, 'Right to Life' is mentioned in Article 21 of the Constitution of India.

31. It is, by now, well-settled that non-examination of Doctor or non-production of Medical Report, would not be fatal in a given prosecution case, if the evidence of the Prosecutrix/Victim and other witnesses is quite worthy of credence, and inspires subjective confidence of a Court of Law.

32. As far as the present case is concerned, the unimpeachable evidence of P.W.1/victim girl was that she had refused to have sexual intercourse, prior to her marriage with the Appellant/Accused, but, despite her refusal, it appears that the Appellant/Accused had ravished her and as such, this Court comes to an inevitable conclusion that the offence under Section 376 (1) I.P.C. was made out against the Appellant/Accused by the Respondent/Prosecution.

33. In short, the evidence of prosecutrix/P.W.1 indicates that the Appellant/Accused was the person responsible for the commission of offence against her. The evidence of P.W.1, affecting her reputation in regard to the ravishment made by the Appellant/Accused cannot be so easily brushed aside or disbelieved. Per contra, the version of P.W.1 in her evidence is cogent, coherent, consistent as to the commission of the offence made by the Appellant/Accused. In the present case, the defence taken on behalf of the Appellant/Accused before the

trial Court that he was in no connected with any of the offence, as claimed by P.W.1 cannot be accepted by this Court because of the simple reason that the evidence of P.W.1 about the commission of offence of rape by the Appellant/Accused was cogent, coherent and convincing one, and the same is accepted by this Court.

34. It is represented on behalf of the Appellant/Accused that both the Appellant/Accused and Prosecutrix/P.W.1, after their marriage, are living separately and with their family.

35. At this stage, this Court aptly points out that both in cases of sub-section (1) and (2) of Section 376 IPC, a Court of Law has the discretion to impose a sentence of imprisonment less than the prescribed minimum for 'Adequate and Special Reasons'.

36. Be that as it may, in the upshot of the detailed discussions, and also this Court, on taking note of the attendant facts and circumstances of the present case in a integral manner, comes to a consequent conclusion that the trial Court had rightly found the Appellant/Accused was guilty in respect of offence under Section 376 (1) I.P.C. However, in regard to the imposition of punishment of Rigorous Imprisonment for a period of seven years, the same is slightly on the higher side (Of course, based on the facts and circumstances of the present case) as opined by this Court.

37. Therefore, this Court by keeping in mind of a prime fact both the Appellant/Accused and Prosecutrix/P.W.1 (Victim) had got married subsequently and they are living separately with their own families and also this Court, bearing in mind the peculiar facts and circumstances of the instant case, exercising its thinking judicial discretion, modifies the sentence of seven years Rigorous Imprisonment awarded by the trial Court in respect of an offence under Section 376 (1) and reduces the same to that of five years. Since this Court had awarded the substantial punishment of five years Rigorous Imprisonment to the Appellant/Accused, in respect of offence under Section 376 (1) I.P.C., based on the facts and circumstances encircling the present case, this Court sets aside the imposition of fine of Rs.2,000/- by the trial Court, and is not imposing any fine on the Appellant/Accused to prevent an aberration of justice and to secure the ends of justice. Inasmuch as this Court has set aside the payment of fine of Rs.2,000/- on the Appellant/Accused, it is open to the Appellant/Accused to file a Payment Out Application under the Criminal Rules of Practice before the learned Sessions Judge, Magalir Neethi Mandram, (Fast Track Mahila Court) Vellore and claim refund, as per Law.

38. In fine, the Criminal Appeal is allowed in part, on the above terms.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

sd

To

1. The District and Sessions Judge,
Vellore.
2. The Sessions Judge,
Magalir Neethi Mandram,
(Fast Track Mahila Court)
Vellore.
3. The District Collector,
Vellore.
4. The Director of Police,
Mylapore, Chennai.
5. The Inspector of Police,
Takkolam Police Station,
Takkolam, Arakkonam Taluk,
Vellore District.
6. The Superintendent,
Central Prison,
Vellore.
7. The Section Officer,
Criminal Section,
High Court, Madras.
8. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Mohamed Hasain, Advocate, S.R.No.60230

Cr1.A.No.333 of 2016

KS(CO)
CA(12/11/2016)