

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.11.2017

PRONOUNCED ON : 13.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE P.N. PRAKASH

Crl.A.No.215 of 2013

Kumaravel

... Appellant

Vs.

State rep by
The Deputy Superintendent of Police
Chidambaram Sub Division
Chidambaram
Cuddalore District.

... Respondent

Criminal Appeal filed under Section 374 (2) of Cr.P.C. against the conviction judgment passed by the Principal Sessions Judge, Cuddalore in S.C.No.128 of 2012 dated 04.03.2012.

For Appellant : Mr.G.Pugazhenth
For Respondent : Mr.K.Madhan
Govt.Advocate (Crl. Side)

JUDGMENT

This appeal has been filed against the judgment dated 04.03.2012 passed in S.C.No.128 of 2012 by the learned Principal Sessions Judge, Cuddalore.

2. It is the case of the prosecution that on 30.09.2011, around 2.00 p.m., when the de facto complainant [a Dalit lady aged about 24 years] and her friends were picking firewood in a cashew grove, the accused, who is a caste Hindu, had abused the de facto complainant by referring to her caste name; hit her on her face; tore her blouse; cut her thali chain and took away her gold ornaments. On the complaint [Ex.P.1] lodged by the victim [P.W.1], Sabitha [P.W.8], Sub-Inspector of Police, registered a case in Cr.No.261 of 2011 on 30.09.2011 at 16.30 hours for the offences under Sections 354, 394 read with 397 IPC and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act [for short "the SC/ST Act"] against the accused, vide FIR [Ex.P.3].

3. Investigation of the case was taken over by Durai [P.W.10], Deputy Superintendent of Police, who went to the place of occurrence on the same day at 6.00 p.m. and in the presence of the witnesses Kabilan [P.W.7] and Selvamurthy [not examined], prepared an Observation Mahazar [Ex.P.2] and Rough Sketch [Ex.P.5]. He recorded the statements of the victim [P.W.1], Geetha [P.W.2], Vasantha [P.W.3], Meena [P.W.4] and other witnesses. He obtained the Community Certificate [Ex.P.6] for the victim and the accused, which showed that the victim is a member of a Scheduled Caste Community and the accused belongs to the Most-Backward Community. He completed the investigation and filed a charge sheet in P.R.C. No.6 of 2012 before the District Munsif-cum-Judicial Magistrate, Portonovo for the offences under Section 3(1)(x) of the SC/ST Act and

Sections 354, 394 read with 397 IPC.

4. On the appearance of the accused, he was furnished with the relied upon documents under Section 207 Cr.P.C. and the case was committed to the Special Court for SC/ST Act Cases in S.C.No.128 of 2012, where, charges for the offences under Section 3(1)(x) of the SC/ST Act and Sections 354, 394 read with 397 IPC were framed against the accused. When questioned, the accused pleaded not guilty. In order to prove the case, the prosecution examined 10 witnesses and marked 6 exhibits. When the accused was questioned about the incriminating circumstances appearing against him under Section 313 Cr.P.C., he denied the same. No witness was examined nor any document marked on behalf of the accused.

5. After considering the evidence adduced by the prosecution, the trial Court, by judgment dated 04.03.2013 in S.C.No.128 of 2012, convicted the accused for the offences under Section 3(1)(x) of the SC/ST Act and Section 354 IPC and sentenced him to undergo six months Rigorous Imprisonment and one month Rigorous Imprisonment respectively. The sentences were directed to run concurrently. The trial Court acquitted the accused for the charge under Section 394 read with 397 IPC. Challenging the conviction and sentence, the accused is before this Court.

6. Heard Mr.G.Pugazhenth, learned counsel for the appellant and Mr.K.Madhan, learned Government Advocate (Crl.Side) appearing for the State.

7. Learned counsel for the appellant strenuously contended that the entire case has been foisted on the accused on account of land dispute and that there were contradictions in the prosecution version, which should merit consideration by this Court. He submitted that in the complaint [Ex.P.1] given by the victim, she has stated that the accused had cut her thali chain and had taken away the same, whereas, the trial Court has acquitted the accused for the charge under Section 394 r/w 397 IPC, since it was established during trial that the accused had not taken the gold ornaments, but the same were returned to the mother-in-law of the victim, by Meena [P.W.4].

8. Per contra, learned Government Advocate (Crl.Side) refuted the submissions.

9. The victim Banu [P.W.1] in her evidence has stated that when she and her friends, viz., Geetha [P.W.2], Vasantha [P.W.3] and Sandhagam [P.W.6] were in the cashew grove around 2.00 p.m. on the day of occurrence, the accused came there and abused her by referring to her caste name, hit her on her face saying "What work you have here Dalit whore" [free translation from Tamil]; he cut her thali thread with a knife and took it away and he also tore her blouse. When she

raised alarm, her friends came there and when they questioned the accused, he threatened them by brandishing a knife and ran away. In the cross-examination of Banu [P.W.1], the defence was not able to make any serious dent in her testimony. She admitted that the ornaments came into the hands of her mother-in-law, Mangalakshmi [P.W.5] thereafter.

10. The accused took a stand that he was not at all there in the place of occurrence and no incident, as alleged by the victim, had taken place. He had not suggested any specific ill-will or previous motive for foisting the case against him.

11. When Geetha [P.W.2], Vasantha [P.W.3] and Sandhagam [P.W.6] were all picking firewood in the cashew grove, they heard the victim calling for help and when they went, they saw the accused with the knife and the victim screaming. They found that the blouse of the victim was torn. The accused has abused the witnesses also by referring to their caste name. He threatened them by brandishing a knife and ran away. The evidence of these three witnesses is indeed very cogent and they corroborate the evidence of the victim substantially. There is no reason for this Court to disbelieve the evidence of the victim and the three witnesses.

12. Meena [P.W.4], in her evidence, has stated that she was also in the cashew grove, but, when she went to the place of occurrence, she found the gold

ornaments lying on the ground, which, she picked up and handed over to Mangalakshmi [P.W.5], the mother-in-law of the victim [P.W.1].

13. Though the victim [P.W.1] has stated that the accused had snatched away her thali chain, it appears that the thali chain was not gold, but a thick thread, to which the gold ornaments were tied. Meena [P.W.4] had taken the gold ornaments lying on the ground, which were presumably dropped by the accused in the ensuing confusion and had handed over the same to the mother-in-law of the victim [P.W.1], on account of which, the trial Court has acquitted the accused for the offence under Section 394 r/w 397 IPC. The acquittal of the accused for the said offence will not lead to the inference that the incident of the accused abusing the victim and tearing her blouse had not taken place.

14. Learned counsel for the appellant submitted that the victim [P.W.1] has stated in her cross-examination that after the incident, she had gone home and that she reported to the police only on the bidding of the people around her and therefore, he submitted that a false case has been foisted on the appellant. On a careful reading of the evidence of the victim [P.W.1], it is clear that after the incident had taken place, she had gone to her house which is but natural, because, she would have gone to her house to change her torn blouse. She also would not have wanted to go to the Police Station for complaining against the accused fearing serious consequences, as the accused is a caste Hindu. The people around

her would have instilled courage in her and would have advised her not to take this lying low and thereafter, she would have gone to the Police Station with the other villagers to lodge the complaint. While appreciating the evidence in a case of this nature, this Court should bear in mind the ground reality that exists even today in our villages. In fine, this Court does not find any infirmity in the judgment of the trial Court warranting interference.

In the result, this appeal is dismissed as being devoid of merits. The judgment dated 04.03.2012 passed in S.C.No.128 of 2012 by the learned Principal Sessions Judge, Cuddalore, stands confirmed.

13.12.2017

To

1.The Deputy Superintendent of Police
Chidambaram Sub Division
Chidambaram
Cuddalore District.

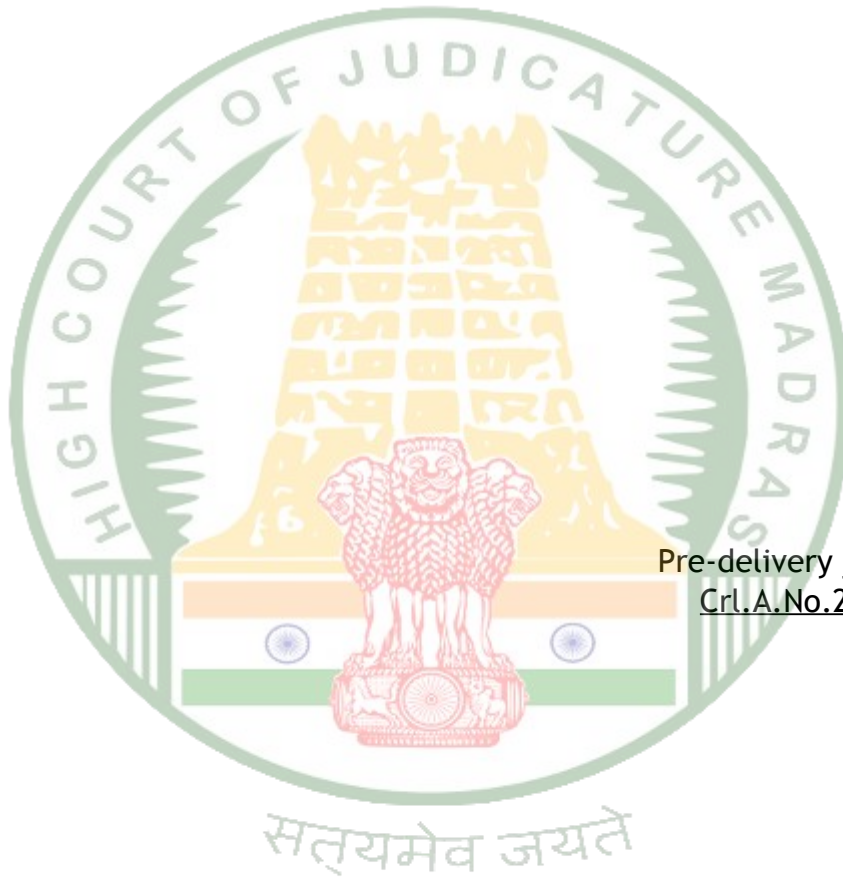
2. The Principal Sessions Judge,
Cuddalore.

3.The Public Prosecutor,
High Court, Madras.

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P.N.PRAKASH, J.

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Pre-delivery judgment in
CrL.A.No.215 of 2013

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