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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.08.2018

PRONOUNCED ON : 27.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

CRL.R.C.No.119 of 2011

Peter ... Petitioner/Appellant/Accused

-Vs-

State represented by
The Sub-Inspector of Police,
Valparai Police Station,
Coimbatore District.

(In Crime No.159 of 2005) ...Respondent/Respondent/Complainant

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of Cr.P.C., praying to call for the records and set aside the judgment in C.C.No.39 of 2005 on the file of the learned Judicial Magistrate, Valparai, dated 05.09.2008 as modified and confirmed by the learned 1st Additional District and Sessions Judge, Coimbatore in C.A.No.339 of 2008, by his judgment dated 15.09.2009.

For Petitioner : Mr.M.Santhanamari

For Respondent : Ms.Kritika Kamal.P.
Government Advocate.

ORDER

The convicted accused is the revision petitioner herein. This Criminal Revision Case has been filed, challenging the judgment and sentence of fine of Rs.1000/- imposed on the petitioner under Section 448 IPC, in default to undergo simple imprisonment for one month and another enhanced fine of Rs.5,000/- in addition to the earlier fine of Rs.5000/- imposed on the petitioner under Section 4 of the Tamil Nadu Prohibition of Woman Harassment Act, 1998 by the learned 1st Additional District and Sessions Judge, Coimbatore, dated 15.09.2009 in C.A.No.339 of 2008 while partly modifying and confirming the judgment and sentence imposed on the petitioner by the learned Judicial Magistrate, Valparai, dated 05.09.2008 in C.C.No.39 of 2005.



2.The respondent police filed charge sheet against the revision petitioner herein for the alleged offences under Sections 448, 354, 506(ii) IPC for the offences committed against P.W.1 in her house on 25.05.2005. The learned Judicial Magistrate, Valparai after perusing the records has framed charges under Sections 448, 506(ii) IPC and Section 4 of the Tamil Nadu Prohibition of Woman Harassment Act, 1998. After analyzing the entire evidence, the trial Judge found the accused guilty under Sections 448, 506(ii) IPC and Section 4 of Tamil Nadu Prohibition of Woman Harassment Act, 1998, thereafter, referred the matter to the learned Chief Judicial Magistrate, Coimbatore under Section 325 Cr.P.C, since he is not the authority to impose fine amount of Rs.10,000/- under Section 4 of Tamil Nadu Prohibition of Woman Harassment Act, 1998. But, the learned Chief Judicial Magistrate, Coimbatore has returned the case bundle to the learned Judicial Magistrate, Valparai, stating that in view of the amended act 25/05, the Judicial Magistrate is empowered to impose fine upto Rs.10,000/-. Thereafter, the learned Judicial Magistrate, Valparai has imposed a fine of Rs.1000/- under Section 448 IPC, 15 days rigorous imprisonment under Section 506(ii) IPC and imposed fine of Rs.5000/- under Section 4 of Tamil Nadu Prohibition of Woman Harassment Act, 1998 in default to undergo rigorous imprisonment for three months.

3.Aggrrieved over the same, the petitioner herein filed Crl.A.No.339 of 2008 before the 1st Additional District and Sessions Judge, Coimbatore. The Appellate Court while partly allowing and confirming the judgement and sentence passed by the lower Court, imposed fine of Rs.1,000/- under Section 448 of IPC in default to undergo simple imprisonment for one month and enhanced fine of Rs.5,000/- in addition to the earlier fine of Rs.5,000/- imposed on the petitioner under Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, 1998 on 15.09.2009.

4.Heard the learned counsel appearing for the revision petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent police.

5.The learned counsel appearing for the revision petitioner would contend that there is a delay in filing the First Information Report. There is no supporting evidence or eyewitness to the alleged occurrence except the version of P.W.1 and the alleged act of the accused catching hold the hand of P.W.1 and pulling her out from the house was not witnessed by any person and hence, the offences in question are not made out as projected by the prosecution.

6.Points for determination are whether the orders of



conviction laid by the Courts below under Sections 448, 506(ii) IPC and Section 4 of the Tamil Nadu Prohibition of Woman Harassment Act, 1998 are sustainable in law and whether the sentence awarded thereon is excessive.

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7. After hearing the rival submissions and also perusing the oral evidence of P.W.1 to P.W.7 and Exs.P.1 to P.4, it is seen that the accused was charge sheeted for the offences under Sections 448, 506(ii) and 354 IPC by the prosecution. However, the lower Court has framed the charges under Sections 448, 506(ii) and 4 of Tamil Nadu Prohibition of (Woman Harassment) Act, 1998. On 25.05.2005 at about 8.00 P.M., the accused trespassed into the house of P.W.1 while she was alone in the house and pulled her out and immediately P.W.1 raised sound. On hearing the same, P.W.2 to P.W.4 rushed to the place of occurrence. They also witnessed the occurrence. Immediately, the accused escaped from the scene of occurrence. Ex.P.3, First Information Report was lodged on 26.05.2015 at about 08.30 A.M., and hence, there is some delay in registering the same.

8. However, taking note of the place of the occurrence, namely, estate, situated in the remote corner of Valparai, the First Information Report has been registered only on the next date of occurrence and this Court takes judicial notice of the nature of terrain and transport facilities and hence, the minor delay in preparing the First Information Report cannot be attributed to the prosecution. Taking into consideration of the place of the occurrence namely, midst of the estate, I am of the opinion that the minor delay caused in filing the First Information Report is not fatal to the prosecution.

9. On perusal of the evidence of P.W.1 to P.W.4, this Court finds that the accused had entered into the house of P.W.1 at the relevant point of time and it is the specific evidence of P.W.1 victim girl that at the night time around 08.00 P.M., when her parents P.W.2 and P.W.3 went out side, she was alone in the house and at that time, the accused came inside the house and caught hold her hand and pulled her down by uttering that "What business you have got here, we will go". The said act of the accused has been witnessed by P.W.2 and P.W.3 neighbors, who came to the scene of the occurrence on hearing the crying sound of P.W.1, and also questioned the accused.

10. From the evidence of P.W.1 to P.W.3, it is clear and cogent that at that time, he has criminally intimidated them and threatened them by saying that he will set them on fire. P.W.4 the father of P.W.1 also witnessed the said incident. In the cross examination of the private prosecution witness D.W.4, both the Courts below have concurrently held that the accused is criminally trespassed into the house of P.W.1 and caught hold of



her hand and pulled her out from the house.

11. On close scanning and scrutinizing the evidence of P.W.1, who clearly demonstrates the incident and behavior of the accused and caught holding of her hand and pulling her out from the house to the street and in the absence of any contradiction, this Court finds that the version of P.W.1 is clear and cogent and duly corroborated by the independent witnesses of P.W.2 and P.W.3, who are the neighbors residing in the nearby house of P.W.1 and thus, the conviction laid under Section 4 of Tamil Nadu Prohibition (Women Harassment) Act, 1998, does not call for any interference at this revisional stage. Accordingly, this Court finds that the conviction laid by the Court below is being well merited and well considered. It does not warrant any interference at this revisional stage and the judgement rendered by the Lower Appellate Court does not call for any interference and thus the conviction and sentence given under Section 448 IPC and Section 4 of Tamil Nadu Prohibition (Women Harassment) Act, 1998 is confirmed.

12. In the result, this Criminal Revision Case is dismissed. The conviction and sentence passed by the learned Judicial Magistrate, Valparai, dated 05.09.2008 in C.C.No.39 of 2005 as confirmed by the learned 1st Additional District and Sessions Judge, Coimbatore, dated 15.09.2009 in C.A.No.339 of 2008 is hereby confirmed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Myr/Jrl

To

1. The Judicial Magistrate, Valparai.
 2. The First Additional District and Sessions Judge,
Coimbatore.
 3. The Additional Public Prosecutor,
Madras High Court, Madras.
- Copy To: The Section Officer,
B Section, High Court, Madras.
+1 cc to Mr.E.J.Ayyappan, Advocate Sr.No.81209

Order made in
CRL.R.C.No.119 of 2011

MR(CO)
CSL/03.01.2019