



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
RESERVED ON: 19.06.2018  
DELIVERED ON : 10.07.2018  
CORAM :

**THE HONOURABLE MRS. JUSTICE R. THARANI**

Crl.A.(MD) No.260 of 2018

and

Crl.M.P.(MD) Nos.3918 and 3919 of 2018

A.Selvan

... Appellant

vs.

State through  
Assistant Commissioner of Police,  
Anti-Dowry Cell,  
Madurai City,  
Crime No.23 of 2014,  
Tallakulam All Women Police Station.

... Respondent

**Prayer:-** Criminal Appeal filed under Section 14-A of Scheduled Castes and Scheduled Tribes (P.A.) Act, 1989, to call for the records of the case, set aside the orders in Cr.M.P.No.922 of 2017 dated 03.03.2018 and discharge the petitioner/accused of offence under Section 376 and 417 of IPC.

For Appellant : Mr.B.N.Raja Mohammed  
For Respondent : Mr.K.Suyambulinga Bharathi  
Government Advocate (Crl. Side)

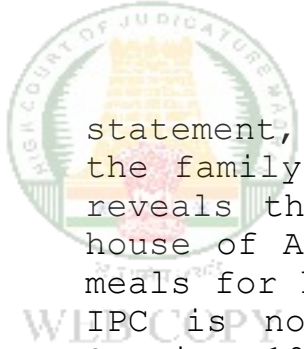
### JUDGMENT

Heard Mr.B.N.Raja Mohammed, learned counsel for the appellant and Mr.K.Suyambulinga Bharathi, learned Government Advocate (Crl. Side) appearing for the respondent.

2.This appeal has been filed to set aside the order passed in Cr.M.P.No.922 of 2017 dated 03.03.2018 and discharge the petitioner/accused of offence under Section 376 and 417 of IPC.

3.The charge against the appellant is that with false promise to marry the defacto complainant, the appellant compelled the defacto complainant and had sexual intercourse with her. Later he refused to marry the defacto complainant and the case in Crime No.23 of 2014 was registered against the appellant under Sections 417, 376 and 506(i) of IPC and Section 4 of Dowry Prohibition Act and Section 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Amendment Act, 2015.

4.On the side of the appellant, it is stated that the appellant and A1 had love affairs and they were living together and L.W.1 has given statement that they had love affairs. In 161



statement, it is stated that the love affairs was known to both the family members and their friends. The statement of L.W.5 also reveals the fact that the defacto complainant used to go to the house of A1 on Saturdays and Sundays and she also used to prepare meals for him. The appellant is a consent party and Section 376 of IPC is not made out. It is only misconception of fact under Section 19 of IPC and statement of L.W.1 reveals that there is caste problem between them and there is no chance for A1 to marry her. Hence, it is clearly established that the appellant and victim fell in love and the complainant is only willing party and the offence of abetting is also not made out as both the victim and accused are Ph.D holders. A false promise to marry her cannot hold good as both of them are aware of their doing and prayed for the discharge of the appellant from the charge.

5. On the side of the respondent, it is stated that the appellant gave false promise to marry her and therefore, Section 417 of IPC is made out and when the promise is false, the consent is only due to the false promise and the statement of the witness clearly reveals that the appellant gave false promise and threatened the defacto complainant for intercourse with him. From the statement of the victim, there is *prima facie* case made out and prayed this petition to be dismissed.

6. Records perused. It is stated that the appellant is aware of the caste difference, and that even afterwards he promised to marry her and he had sexual intercourse with the victim. Whether the statement of the victim is correct or not can be decided only after the completion of the trial. This facts cannot be decided at this stage. From the materials available on record, it seems that there is *prima facie* case is made out against the accused. Hence, there is no sufficient reasons to interfere in the impugned order of the lower Court. This Criminal Appeal is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar(SAR4)

To

1. The Principal District and Sessions Judge,  
Madurai.
2. The Additional Mahila Judge, Madurai.
3. The III Additional District Judge, (PCR)  
Madurai.



4. The Judicial Magistrate No.I, Madurai.
5. The Chief Judicial Magistrate, Madurai.
6. The District Collector,  
Madurai.
7. The Director General of Police,  
Chennai.
8. The Superintendent of Police,  
Madurai.
9. The Assistant Commissioner of Police,  
Anti-Dowry Cell,  
Madurai City.
10. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.
11. The Section Officer, (2 copies)  
Criminal Section,  
Madurai Bench of Madras High Court,  
Madurai.

+1cc to Mr.S.Prabaharan, Advocate Sr.No.71891

MRN

VB/SKN/RSK/SAR4/24.07.2018/3P/14C

Crl.A.(MD) No.260 of 2018  
10.07.2018