

Bail Slip

The Petitioner herein/Accused namely Athiyaman, S/o.Rajagopal, was directed to be released on bail as per order of this Court dated 13/07/2012 made in CrI.MP.No.1/2012 in CrI RC.700/2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:03.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.700 of 2012

Athiyaman

...Petitioner/Accused

-Vs-

State by Sub Inspector of Police,
Krishnagiri Reservoir Project-Dam Police Station,
Krishnagiri District.
Cr.No.235 of 2008

....Respondent/Complainant

Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C., to set aside the judgment dated 29.03.2012 made in C.A.No.23/2011 on the file of the learned Additional Sessions Judge, Krishnagiri confirming the judgment dated 07.03.2011 made in C.C.No.488 of 2009 on the file of the learned Judicial Magistrate-II, Krishnagiri.

For Petitioner : Mr.R.Marudhachalamurthy
For Respondents : Mr.T.Shanmuga rajeswaran
Government Advocate (CrI.Side)

O R D E R

This Criminal Revision has been filed to set aside the judgment dated 29.03.2012 in C.A.No.23/2011 on the file of the learned Additional Sessions Judge, Krishnagiri, confirming the judgment dated 07.03.2011 made in C.C.No.488 of 2009 on the file of the learned Judicial Magistrate-II, Krishnagiri.

2. The respondent Police registered a case against the revision petitioner for the offence under Section 354 and 506 (ii) IPC. After investigation, the respondent police laid charge

sheet before the learned Judicial Magistrate-II, Krishnagiri. The learned Magistrate, took the charge sheet on file in C.C.No.488 of 2009. After full-fledged trial, the learned Magistrate found the accused guilty for the offence under Section 354 IPC and convicted and sentenced him to undergo two months rigorous imprisonment; and not found the accused guilty for the offence under Section 506(ii) of IPC. Challenging the said order of the learned Judicial Magistrate-II, Krishnagiri, the petitioner had filed the appeal before the learned Principal Sessions Judge, Krishnagiri in C.A.No.23 of 2011 and the same was made over to the learned Additional District and Sessions Judge. After hearing the arguments on both sides, the learned Additional Sessions Judge, dismissed the appeal and confirmed the order of the learned Judicial Magistrate-II, Krishnagiri in C.C.No.488 of 2009, dated 07.03.2011. As against the judgment of the learned Additional Sessions Judge, Krishnagiri, the petitioner has filed the present revision before this Court.

3. The learned counsel for the petitioner would submit that the alleged occurrence has not taken place at all and there is no eyewitness in this case. Due to previous enmity between the family of the appellant and the victim, they have foisted a false case against him. There is a delay in lodging a complaint, which itself creates a doubt. Therefore, the case of the prosecution itself is false and the prosecution has failed to prove its case beyond reasonable doubt. Both the Courts have failed to consider these aspects and convicted the petitioner, which warrants interference.

4. The learned counsel for the respondent would submit that P.W.1 is the victim girl, aged about 13 years at the time of occurrence. When she went to attend nature's call, at that time the revision petitioner lifted her to Mango thoppu, misbehaved with her and threatened that if she revealed to anyone, he would kill her. After some time, P.W.1 informed the incident to her mother. At that time P.W.3 father of the victim was not in station. When he returned back, P.W.2 informed the same to P.W.3. P.W.2 and P.W.3 informed the incident to the village elders. They questioned the petitioner about the incident and he replied adamantly. Hence, they preferred a complaint against the petitioner before the respondent police. Therefore, the delay has occurred. The prosecution has explained with regard to the delay in preferring the complaint and proved its case beyond reasonable doubt. P.W.1, the victim girl, has clearly narrated the incident. Both the Courts below have rightly appreciated the evidence and convicted the petitioner and there is no reason to interfere with the judgments.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. side) and perused the materials available on record.

6. It is the case of the prosecution that on 02.11.2008, at about 6.00 a.m., P.W.1, the victim girl, went to mango grove near Perumalappan Kovil, while attending nature's call, the petitioner went there and misbehaved with her and threatened with dire consequences, 'if you reveal this matter to others, I will defame you'. Thereafter, P.W.1 informed her mother. At that time P.W.3 father of the victim was not in station. After he returned back to home, P.W.2 informed him thereafter, they informed the matter to the village panchayatars. They advised to file a complaint before the respondent police. After investigation, the Police filed a case in Crime No.235 of 2008 and laid charge sheet against the petitioner for the offence under Section 354 and 506(ii) IPC.

7. On reading of the evidence of P.W.1 to P.W.3, it is seen that there is previous enmity between the two families. In her evidence, P.W.1, has clearly stated that on 02.11.2008, when she went to Mango Thoppu to attend nature's call, the petitioner came behind her and grasped her breast and caught hold her hand and asked her to lift her cloth and also he threatened her with dire consequences.

8. The learned counsel for the petitioner submitted that there is no eye witness in this case and there was a delay in lodging the complaint.

9. On a perusal of the evidence of P.W.2 and P.W.3, it is seen that P.W.2 and P.W.3 are the parents of the victim. The victim girl informed her mother about the incident. At that time, P.W.3 was not in station. When he came back to home, P.W.2 informed him and they discussed the issue with the village panchayatars. When they questioned the petitioner about the incident, he replied adamantly. Hence, they preferred a complaint against the petitioner before the respondent police. Therefore, the delay has occurred. The prosecution has explained with regard to the delay in preferring the complaint and proved its case beyond reasonable doubt.

10. In cases like this, the Court cannot expect any direct eye witness and the evidence of the victim girl has to be taken into consideration. In the present case, the evidence of the victim is enough and there is no reason to discard the evidence of victim girl. The victim girl, who was aged about 13 years at the time of occurrence, has clearly narrated the incident and the involvement of the petitioner. Further, the petitioner did not establish his defence by examining any witness. Therefore,

the learned Sessions Judge has rightly convicted the petitioner and there is no reason to interfere with the judgment.

11. The respondent has properly explained the delay in preferring the complaint. Further the parents of the victim would not react immediately. They would think about the reputation of the family and future of the minor girl. P.W.1 to P.W.3 have clearly deposed about the incident and involvement of the petitioner and there is no reason to discard the evidence of P.W.1/victim girl. The petitioner has taken a defense that due to previous enmity, a false case has been foisted. This Court is not in agreement with the same for the simple reason that no parents would go to the extent of sacrificing the reputation of their daughter to get their revenge.

12. Under these circumstances, the contention raised by the learned counsel for the petitioner is not acceptable. While exercising the power of revisional jurisdiction, this Court cannot sit in the arm chair of the Appellate Court and re-appreciate the entire evidence. Both the Courts being fact finding Courts, have rightly appreciated the evidence and given findings. In this regard, while exercising revisional jurisdiction, this Court has to find out as to whether any perversity is found in the Judgment passed by the Courts below.

13. This Court, on going through the entire materials, does not find any perversity in the judgment of both the Courts below and there is no merit in the revision.

14. However, considering the facts and circumstances of the case and age of the revision petitioner, sentence alone is modified from two months to one month.

15. With the above modification, this revision is dismissed.

Sd/-

सत्यमेव जयते Assistant Registrar (CS-VI)

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Sub Assistant Registrar

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To

1.The Additional Sessions Judge, Krishnagiri.

2.The Judicial Magistrate-II, Krishnagiri.

3. The Sub Inspector of Police,
Krishnagiri Reservoir Project-Dam Police Station,
Krishnagiri District.

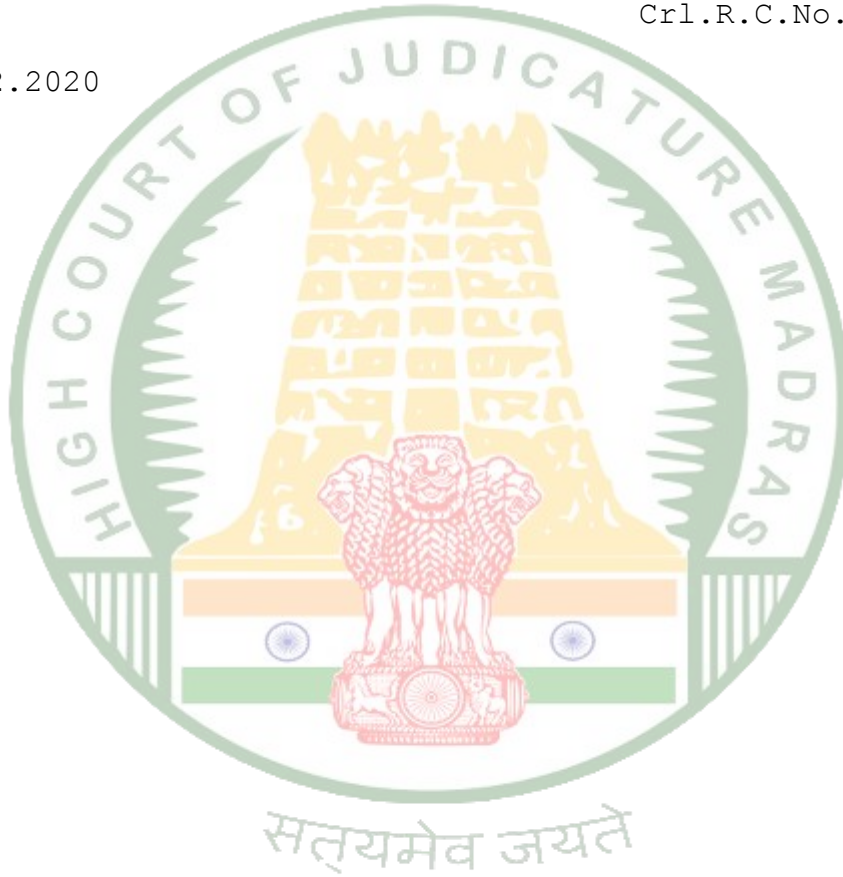
4.The Chief Judicial Magistrate, Krishnagiri

5.The Public Prosecutor, High Court, Madras.

+1CC to Mr.R.Marudhachalamurthy, Advocate, SR.No.55761.

Cr1.R.C.No.700 of 2012

EV(CO)
CSR: 10.02.2020



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