



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2019

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Criminal Appeal No.168 of 2016

R.Richard

..Appellant/Petitioner

vs.

State (Inspector of Police),  
N-1, Royapuram Police Station,  
Royapuram, Chennai-600 013.  
(Cr.No.487/2010)

.. Respondent/Complainant

Prayer: Criminal Appeal filed under Section 374(2) CrPC against the judgment of the Court of Sessions Judge, (Mahalir Neethi Mandram), Chennai dated 21.09.2012 in S.C.No.292 of 2011.

For Petitioner : Mr.J.I.Rajkumar Roberts

For Respondent : Ms.Krithika Kamal,  
Government Advocate (Crl.Side)

#### JUDGEMENT

Facts leading to the filing of this Criminal Appeal, briefly narrated are as follows:

1.1. On the written complaint (Ex.P2) lodged by Sekar (PW2), the respondent police registered a case in Crime No.487 of 2010 at about 12.00 hours on 13.06.2010 under Sections 376 and 506(ii) I.P.C. against the appellant herein and prepared the printed F.I.R. (Ex.P8). It is the case of the prosecution that the appellant ravished and deflowered the victim girl, namely Kavitha, aged about 12 years, on 07.05.2010 on the promise of marrying her. It is also alleged that when the victim girl and her parents informed the same to the parents of the accused, they intimidated the family of the victim girl by warning them that their entire family would be liquidated if they spill the beans.

1.2. After completing the investigation, the police filed the Final Report in P.R.C.No.13 / 2011 before the XV



Metropolitan Magistrate Court, George Town, Chennai against Richard (A1) / appellant herein, his mother Alka (A2), his sister Jansi (A3) and her husband Karunakaran (A4). The case was committed to the Court of Sessions in S.C.No.292 / 2011 and was made over to the Mahila Court, Chennai for trial and charges were framed for the offences under Sections 376 and 506(i) I.P.C. as against (A1) and under Section 506(ii) I.P.C. as against A2 to A4. When questioned, the accused 1 to 4 pleaded not guilty.

1.3. To prove the case, the prosecution examined 12 witnesses and marked 9 exhibits. The appellant / A1 examined himself as DW1 and marked the photographs (Ex.D1) and love letters (Ex.D2). When the accused were questioned under Section 313 CrPC on the incriminating circumstances appearing against them, they denied the same. The Trial Court, vide judgment dated 21.09.2012 in S.C.No.291/2011, acquitted A2 to A4 for the charge under Section 506(ii) I.P.C. but convicted A1 as under:

| Rank of the Accused | Conviction under Section | Sentence awarded by the Trial Court                                                                        |
|---------------------|--------------------------|------------------------------------------------------------------------------------------------------------|
| A1                  | 376 I.P.C.               | 7 years Rigorous Imprisonment with a fine of Rs.5,000/- in default to undergo 3 months simple imprisonment |
|                     | 506(i) I.P.C.            | 1 year Rigorous Imprisonment.                                                                              |

The sentences were ordered to run concurrently and the appellant/A1 was granted set off under Section 428 CrPC. Challenging the conviction and sentence awarded by the Trial Court, the appellant/A1 is before this Court.

2. Heard Mr.J.P.Rajkumar Roberts, learned counsel for the appellant and Ms.Krithika Kamal, learned Government Advocate (Crl.Side) for the respondent and perused the materials.

3. The prosecution case stands squarely on the evidence of the victim girl (PW1) and the appellant / DW1. The prosecution has proved beyond doubt that the date of birth of the victim girl was 29.04.1998 vide Birth Certificate (Ex.P1) issued by the Corporation of Chennai.

4. The victim girl in her evidence has stated that in the year 2010, she was studying 7<sup>th</sup> standard and just then finished her annual exams ; she knows the appellant and his family; while her father and mother leaves for work, she used to go to the terrace for drying the clothes and thereby got acquainted with



the appellant/A1, who was living with his parents in the same apartments ; on one occasion, the appellant proposed to her and called her to his house in the afternoon; when she went there, he locked the door and laid her on the bed and ravished her, despite her protest; thereafter he promised that he will marry her; she informed this to her parents and on coming to know of it, the appellant and their family threatened her family that they will tarnish their name in the locality if they take the matter any further. The complaint given by PW2 was marked as Ex.P2.

5. The accused/A1/appellant examined himself as DW1 and stated that the victim girl was in love with him and marked the love letters (Ex.D1) and also marked the photographs (Ex.D2) taken with her. The victim girl was examined by Dr.Venkateswari (PW8) on 21.06.2010 and the Certificate of Examination for Sexual Offences issued by her was marked as Ex.P4. PW8 in her evidence as well as in the Certificate (Ex.P4) has stated that hymen was absent.

6. The evidence of the victim girl does not suffer from any infirmity and inspires the confidence of this Court. The appellant has taken a defence that the victim girl was in love with him, to prove which he marked the love letters and the photographs taken with her. However, the evidence on record shows that the victim girl was only 12 years of age at the time of the incident and therefore, consensual sex with a 12 year old girl would indubitably attract Section 376 I.P.C.

7. In the result, this Criminal Appeal is devoid of merits and accordingly, it is dismissed. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

Jvm

To

1. The XV Metropolitan Magistrate,  
George Town,  
Chennai.



2. Do Thro Chief Metropolitan Magistrate,  
Egmore, Chennai - 8.

3. The Court of Sessions Judge,  
(Mahalir Neethi Mandram),  
Chennai.

4. Do Thro The Principal Sessions Judge,  
Chennai.

5. The Superintendent,  
Central Prison, Puzhal,  
Chennai.

6. The Inspector of Police,  
N-1, Royapuram Police Station,  
Royapuram, Chennai-600 013.  
(Cr.No.487/2010).

7. The Public Prosecutor,  
High Court, Madras.

8. The Section Officer,  
Criminal Section,  
High Court, Madras.

+1cc to Mr.J.I.Rajkumar Roberts, Advocate, S.R.No. 50891

Criminal Appeal No.168 of 2016

SKV(CO)  
GN(01/08/2019)