



Bail Slip in Crl.A.No.186 of 2015

The Petitioner/Accused K.Chandru male 30 years S/o.Karupppiah was directed to be released Bail vide order dated 09/06/2015 in MP.1/2015 in Crl.A.No.186/2015 on file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

Crl.A.No.186 of 2015

K.Chandru ... Appellant

Vs

State rep. by
The Inspector of Police,
Tirupur North Police Station,
Tiruppur.
[Crime No.1252 of 2004]

... Respondent

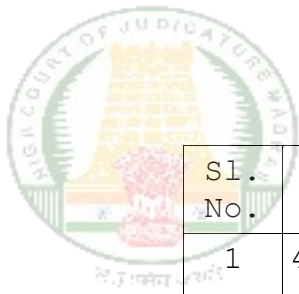
PRAYER: This Criminal Appeal is filed under Section 374(2) of Cr.P.C., against the judgment of the learned Judge, Fast Track Court of Mahila Tiruppur in S.C.No.31 of 2012, dated 26.02.2015.

For Appellant :Mrs.D.Prasanna
Legal Aid Counsel

For Respondent :Mr.A.Gopinath
Government Advocate (Crl.Side)

JUDGMENT

This Criminal Appeal has been preferred by the accused challenging the judgment of the Fast Track Court of Mahila Tiruppur in S.C.No.31 of 2012, dated 26.02.2015, in and by which he was convicted and sentenced as follows:



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Sl. No.	Offence under Sections	Punishment imposed passed by the trial Court
1	448 IPC	To pay a fine of Rs.1000/- in default to undergo one week Simple Imprisonment
2	341 IPC	To pay a fine of Rs.500/- in default to undergo one week Simple Imprisonment
3	342 IPC	To pay a fine of Rs.1000/- in default to undergo one week Simple Imprisonment
4	376(i) IPC	Sentenced to undergo 2 years Rigorous Imprisonment and to pay a fine of Rs.25,000/-, and in default, to undergo Simple Imprisonment for another one month.

2. According to the case of the prosecution, on 12.06.2004 at about 12 noon, PW2, the victim girl, who is the daughter of the defacto complainant/ PW1 was alone at her house. At that time, the appellant/accused trespassed into the house, locked it from inside and kissed her and thereafter he gagged her, pushed her down and ravished her.

3. On the complaint given by PW1-Subramanian, PW6, registered the case in Crime No.1252 of 2004 and prepared Ex.P5-FIR. PW7 took up the case for investigation and went to the place of occurrence and prepared the Observation Mahazar and Rough Sketch in the presence of witnesses and recovered the dresses worn by the victim during the time of occurrence and examined the victim and the other witnesses. Thereafter, PW7, arrested the accused at about 2 p.m., on 13.06.2004 and recorded his confession statement in the presence of witnesses. After completing the investigation, he filed the charge sheet against the appellant/accused for the offences under Sections 448, 341, 342 and 376(i) of IPC.

4. The evidence of prosecution witnesses reveal that the de-facto complainant was a wire man and his daughter is the victim herein, aged 13 years at the time of occurrence. On the date of occurrence, PW1 and his wife went outside by leaving the victim/daughter and later they came to know that the victim was ravished by the accused. The accused/Chandru used to come to his maternal aunt's house, which is nearby the house of the de-facto complainant's house. PW1 went there and enquired about the



accused; the accused was hiding; after coming to know that he was there, PW1 gave a complaint to Police.

4.1. The victim was examined as PW2 and she had stated about the occurrence in her evidence that when she was alone at her home, she took bath and changed her dress. The accused was hiding in the house without the knowledge of the victim and after taking bath, the accused closed the door, kissed her, pushed her down, removed her dress and ravished her; at that time, her brother came and knocked the door by calling her; when PW2 slowly went and opened the door, the accused suddenly came and pushed her brother and ran outside; her brother brought their parents and thereafter PW2 narrated the event to her mother; her father took her to the Doctor for treatment and the Doctor treated her for injuries found on her private parts; the Police also took her to the Government Hospital for medial examination.

4.2. PW5-Doctor who examined the victim, stated in her evidence that, her examination on the victim revealed abrasions measuring 0.03 cm on the right chest and 02 X 02 cm on her vaginal part; the hymen was not in-tact and she noticed contusion on her private part; the vaginal fluid collected and sent for chemical examination.

4.3. The brother of PW2 was examined as PW3 and he has stated that, on the day of occurrence, he was playing with his friends and he wanted to drink water and so he came and knocked the door of his house; since the door was not opened, he opened the window and saw the accused was sitting on his sister and after some time, his sister came crying and opened the door.

5. The learned counsel for the appellant/accused submitted that there are certain contradictions in the evidence of the victim and the medical evidence is not supportive to the case of the prosecution.

6. The learned Government Advocate(Crl.Side) appearing for the State submitted that the victim who was 13 years old has given a clear account of the occurrence and it is right for the Courts below to convict the appellant/accused based on her evidence; the medical evidence also corroborate the evidence of the victim and hence, there is no reason to interfere with the judgment of the Court below.

7. Points for consideration:

'Whether the conviction and sentence of the appellant/accused for the offences under Sections 448, 341, 342 and 376(i) of IPC, by the learned Sessions Judge, basing on the materials available on



record, is fair and proper?''

8. It is seen from the evidence of PW1 that on the day of occurrence, he went somewhere along with his wife by leaving the victim alone at the house. The accused is a known person and he used to come to the neighbour's house where his maternal aunt was residing. The victim has stated about the manner in which the accused entered into the house of the victim and ravished her. She has stated that when she was taking bath and changing dress, the accused came into her kitchen and was hiding. She did not know that the accused was inside kitchen. After she had taken bath, the accused followed her, locked the door and pushed her down and committed the offence.

9. It is needless to state that in the offences of this nature, the evidence of the victim alone is sufficient to convict the accused if it is found to be reliable. It has been held in various judgments of the Hon'ble Supreme Court that the evidence of the sexual victim should be treated like the evidence of the injured witness and there is need for any corroboration and the testimony of the victim if found to be reliable, should be accepted without seeking for any corroboration. In this regard, it is relevant to refer the judgment reported in Ganesan Vs. State Represented by its Inspector of Police [(2020) 10 SCC 573)].

10.1

11. In *State of Punjab v. Gurmit Singh*, (1996) 2 SCC 384, this Court held that in cases involving sexual harassment, molestation, etc. the court is duty-bound to deal with such cases with utmost sensitivity. Minor contradictions or insignificant discrepancies in the statement of a prosecutrix should not be a ground for throwing out an otherwise reliable prosecution case. Evidence of the victim of sexual assault is enough for conviction and it does not require any corroboration unless there are compelling reasons for seeking corroboration. The court may look for some assurances of her statement to satisfy judicial conscience. The statement of the prosecutrix is more reliable than that of an injured witness as she is not an accomplice. The Court further held that the delay in filing FIR for sexual offence may not be even properly explained, but if found natural, the accused cannot be given any benefit thereof. The Court observed as under: (SCC pp. 394-96 & 403, paras 8 & 21)



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background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations."

(emphasis in original)

12. In *State of Orissa v. Thakara Besra*, (2002) 9 SCC 86, this Court held that rape is not mere physical assault, rather it often distracts (sic destroys) the whole personality of the victim. The rapist degrades the very soul of the helpless female and, therefore, the testimony of the prosecutrix must be appreciated in the background of the entire case and in such cases, nonexamination even of other witnesses may not be a serious infirmity in the prosecution case, particularly where the witnesses had not seen the commission of the offence.

13. In *State of H.P. v. Raghubir Singh*, (1993) 2 SCC 622 this Court held that there is no legal compulsion to look for any other evidence to corroborate the evidence of the prosecutrix before recording an order of conviction. Evidence has to be weighed and not counted. Conviction can be recorded on the sole testimony of the prosecutrix, if her evidence inspires confidence and there is absence of circumstances which militate against her veracity. A similar view has been reiterated by this Court in *Wahid Khan v. State of M.P.* (2010) 2 SCC 9 placing reliance on an earlier judgment in *Rameshwar v. State of Rajasthan*, AIR 1952 SC 54.

14. Thus, the law that emerges on the issue is to the effect that the statement of the prosecutrix, if found to be worthy of credence and reliable, requires no corroboration. The court may convict the accused on the sole testimony of the prosecutrix."

10. Though it is not unfair to rely on sole testimony of the victim without any corroboration, in this case, PW3, brother of the victim had also corroborated her evidence. At the time of



occurrence he was playing outside with his friends. As he felt thirsty, he came and knocked the door of the house; since the door was not opened, he peeped through the window and saw the accused was sitting on the victim. The family of the victim did not have any motive against the accused to implicate him falsely in this case. The cross-examination of the material witnesses of PW2 and PW3 did not have anything contrary so as to demolish their chief examination. Their evidences are consistent and reliable.

11. PW5/Doctor who examined the victim has also stated about the abrasion and wounds present on the chest and private part of the victim. The Doctor did not rule out the possibility of subjecting the victim girl for sexual intercourse.

12. It is submitted by the learned counsel for the appellant/accused that the complaint was given after eight hours of the occurrence and that creates a doubt in the case of the prosecution. In sexual offences, normally, when a girl is ravished, her parents would be so reluctant to speak out the same and lodge a complaint. They have to get convinced themselves and be confident to come forward for giving a complaint. In such practical difficulties and social constraints, it is not unusual to delay the legal action by preferring a complaint. Hence, the delay in giving the complaint cannot be considered as fatal to the case of the prosecution. Since the oral, documentary and medical evidence prove the case of the prosecution, the learned Trial Judge found the accused guilty for the offences under Sections 448, 341, 342 and 376(i) of IPC. I find no reason to interfere with the well reasoned judgment of the trial Court.

13. In the result, this Criminal Appeal is dismissed and the judgment of the Sessions Judge, Fast Track Court of Mahila Tiruppur in S.C.No.31 of 2012, dated 26.02.2015, are confirmed. The appellant/accused shall undergo the remaining period of sentence, if any. Since he is on bail, the trial Court is directed to secure the accused and commit him to prison to undergo the remaining period of sentence, if any.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar



To

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1. The Sessions Judge,
Fast Track Court of Mahila, Tiruppur
2. The Inspector of Police,
Tirupur North Police Station,
Tiruppur.
3. The Superintendent,
Central Prison,
Coimbatore.
4. The Public Prosecutor,
High Court of Madras,
Chennai.

Copy to:
The Secretary,
The Tamil Nadu Legal Aid Authority,
High Court, Madras.

+2cc to Mr.D.Prasanna, Advocate for Legal Aid Counsel
SR.No.65415

Crl.A.No.186 of 2015

MT (CO)
CB(25/02/2022)