



Bail Slip

M.P.No.1 of 2015 in CrI.R.C.No.676 of 2015

WEB COPY This Appellant/Accused namely Ravi, Male aged about 39 Years, S/o.Govindaraj was already directed to be released on bail in and by the order of this Court dated 16.07.2015 and made in M.P.No.1 of 2015 in CrI.R.C.No.676 of 2015.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Reserved on : 12.08.2021)

(Pronounced on : 07.10.2021)

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CrI.R.C.No.676 of 2015

Ravi

....Petitioner

.. Vs ..

State represented by  
The Inspector of Police,  
Shevapet Police Station,  
Salem.  
(Crime No.1956/2011)

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w. 401 of Cr.P.C., to set aside the judgment of the learned II Additional Sessions Judge, Salem in C.A.No.172 of 2014 dated 19.02.2015 confirming the conviction and sentence passed by the learned Judicial Magistrate III, Salem in C.C.No.1 of 2012 dated 04.12.2014.

For petitioner : Mr.J.Franklin

For Respondent : Mr.R.Vinoth Raja,

Government Advocate (CrI.Side)

O R D E R

The convicted sole accused is the revision petitioner herein.

2. This revision petition has been filed against the judgment of the learned II Additional Sessions Judge, Salem in C.A.No.172 of 2014 dated 19.02.2015 confirming the conviction



and sentence passed by the learned Judicial Magistrate III, Salem in C.C.No.1 of 2012 dated 04.12.2014. The appellant/accused was convicted and sentenced to undergo Rigorous Imprisonment for 2 years and to pay a fine of Rs.10,000/- for the offence under Section 4 of Tamil Nadu Prevention of Harassment of Woman Act.

3. The respondent-police has filed a charge sheet alleging that the respondent-police has laid a final report against the accused stating that on 13.11.2011 at about 8.00 A.M at Andipatty Housing Board, 5th Block, 2nd Floor, Bolcony, within the jurisdiction of Shevapet Police Station, the accused Ravi hugged witness Gowri and squeezed her breast and caused pain and embarrassment to her and thereby the accused appears to have committed an offence punishable under Section 354 and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act.

4. To substantiate the charges against the accused, P.W.1 to P.W.11 were examined and Exs.P1 to P6 were marked. On the side of the respondent, R.W.1 to R.W.3 were examined and Exs.R1 to R9 were marked.

5. On consideration of oral and documentary evidence, the trial Court has acquitted the accused for charge under Section 506 (ii) I.P.C and convicted under Section 354 I.P.C under Section 4 of the Tamil Nadu Woman Harassment Act and chosen to by sentenced only under the TNP Harassment of Woman Act as stated supra.

6. Heard the learned counsel for the revision petitioner and the learned Government Advocate (Crl.Side).

7.The prosecution in order to prove the charges has examined victim girl P.W.2 and his mother P.W.1 and others are hearsay witnesses.

8. Perusal of the Rough Sketch, which is marked as Ex.P6 clearly shows that the place of occurrence is shown as the second floor balcony and the accused's house is also situated in the second floor as per the rough sketch filed by the prosecution. Therefore, there is no dispute with respect of the place of occurrence.

9. The trial Court has carefully perused the records of the case and the documents submitted on behalf of either side. A careful perusal of the evidence of P.W.2 clearly shows that prior to 6 months from the date, on one sunday, when she was returning to her home after getting tea from the tea shop and at that time, the accused hugged her in the second floor Balcony and squeezed her breast and she has revealed the said occurrence to her mother. Further, the accused has done the same mischievous activities on the proceeding Friday and Saturday when she went for playing out and she had pain in her



breast because of the said activities of the accused. When her mother asked about the said occurrence to the accused, she was told by the accused that he did it just for a fun. Thereafter, her mother gave a complaint before the police station.

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10. Further, the evidence of P.W.2 is corroborated with the evidence of P.W.1 with respect of the occurrence that had happened on 13.11.2011 at about 8.00 A.M when her daughter was returning back after getting a tea from the tea shop and returning back to the home. Further, the accused has criminally intimidated the victim if she disclose the same to others. Hence, the evidence of P.W.2 is corroborated with the evidence of P.W.1 with respect of the occurrence.

11. On the point of delay, heard both sides.

12. Normally, the parents of the girl child will hesitate to give complaint in such cases as it would bring a disgrace to their child or their family and therefore they gave complaint belatedly. The delay in lodging the F.I.R is not fatal to the case of the prosecution because the delay has the effect of contortion. The normal course of human conduct is that an unmarried girl who is a victim of sexual Harassment would not like to give publicity to the traumatic experience she had undergone and would feel terribly embarrassed in relation to the incident to narrate such incident. Overpowered, as she may be by a feeling of shame her natural inclination would be avoid talking to anyone, lest the family name and honour is brought into controversy. Thus, delay in lodging the First Information Report cannot be used as a ritualistic formula for doubting the prosecution case and discarding the same on the ground of delay in lodging the First Information Report.

13. Based upon the evidence of P.W.11 Doctor, the trial Court has convicted the accused by sighting that P.W.2-victim girl was taken treatment on 14.11.2011.

14. On perusal of the lower Court records, I find that the prosecution has filed petition under Section 311 of Cr.P.C and the same was allowed and thereafter, P.W.11 Doctor Sridhar was examined and thereafter Ex.P7 was marked. As stated supra, Ex.P7 clearly demonstrated P.W.2 was taken to the said hospital on 14.11.2011.

It also stated that the Doctor has prescribed pain killer for the pain and accordingly, the trial Court has come to the conclusion that he has committed the offence under Section 4 of the Tamil Nadu Woman Harassment Act.

15. The suggestive case of the defence is that P.W.2 (mother of P.W.1) was contested in the Municipal Ward Election has asked for loan of Rs.18,000/- from the accused and in the election P.W.2 has lost the election and thereafter, P.W.2 has scolded the accused for non co-operation for



success in the election. In this connection, R.W.1, R.W.2 and R.W.3 were examined. No doubt, P.W.2 has contested the election. But the single act cannot be twisted too long to project as if, a false case has been foist against the accused by the P.W.2 through P.W.1. Exs.R8 and R9 only goes to show that P.W.1 has contested in election and her poster is Ex.R9. Ex.P5, Ex.P6 and Ex.P7 are the letter given by the Tamil Nadu Slum Clearance Board to the effect that the person who has indicating the allottee of the flat.

16. Admittedly, P.W.4 Sekar has stated that P.W.1 is only a tenant and therefore these documents does not advance the case of the accused and hence, the trial Court has rightly rejected the suggestive case on the ground that the evidence of R.W.2 and R.W.3 appears to be a cooked up a story to build up a suggestive case and the documents evidence of Exs.R5, R6 and R7 does not advance the case of the defence and consequently held that the suggestive case of the defence is not probablized and in view of the positive evidence has held the prosecution has proved the charge beyond reasonable doubt.

17. In view of the discussion in the preceding paragraphs, I find that conviction laid by the trial Court under Section 354 and Section 4 of the Tamil Nadu Woman Harassment Act is sustainable and trial Court has rightly observed that since both the offences are false under the same category has chosen to levy sentence only under Section 4 of the TNP Harassment of Woman Act and accordingly, awarded fine amount of Rs.10,000/- .

18. On the point of quantum of sentence both the parties are heard.

19. After going through the alleged act of the accused and the evidence of Doctor, I find that the sentence be reduced to 3 months and fine amount ordered by the trial Court is hereby confirmed.

20. Hence, this Criminal Revision Petition is allowed-in-part only to a deduction of quantum of sentence as indicated above.

Sd/-  
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

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To

1. The II Additional Sessions Judge, Salem.

2. The Judicial Magistrate III, Salem.

3. The Chief Judicial Magistrate,  
Salem. (for Information)

4. The Inspector of Police,  
Shevapet Police Station,  
Salem.

5. The Public Prosecutor.  
High Court of Madras,  
Madras.

Cr1.R.C.No.676 of 2015

RP (CO)  
GMY (27/10/2021)