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IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 08.12.2021

JUDGEMENT PRONOUNCED ON : 21.12.2021

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Cr1.A.No.240 of 2016

P.Ramachandran

.. Appellant/ A1

Vs.

The State represented by
The Deputy Superintendent of Police,
Gobichettypalayam Sub-Division,
Erode District.

(Crime No.280 of 2013)

.. Respondent / Complainant

Prayer: Criminal Appeal filed under Section 374 (2) Cr.P.C. to set aside the judgement dated 02.02.2016 made in S.S.C.No.65 of 2014 on the file of the learned Principal Sessions Judge, Erode.

For Appellant : Mr.R.Ganesh, Legal aid counsel

For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor

JUDGMENT

Challenge in this criminal appeal is to the judgment dated 02.02.2016 passed in S.S.C.No.65 of 2014 on the file of the learned Principal Sessions Judge, Erode.

2.The appellant, who was the accused in S.S.C.No.65 of 2014 on the file of the learned Principal Sessions Judge, Erode, was convicted and sentenced as under:

Name of the accused	Provision under which convicted	Sentence
P.Ramachandran	Section 307 IPC	Ten years Rigorous imprisonment and fine of Rs.2,000/-, in default to undergo six months Rigorous imprisonment.



Superintendent of Police, Gopichettipalayam, (P.W.17). He recorded the statement of witnesses and further, investigated the case. The investigation Officer obtained the Community Certificate for accused/Ramachandran (Ex.P.3) and for Juvenile Accused Moorthy (Ex.P.4) from Jayakumar, the Deputy Tahsildar (P.W.9) and also obtained Community Certificate (Ex.P.5) for the victim/Kuppammal (P.W.1) from Thiru.Muthuramalingam (P.W.10). The investigation Officer prepared observation Mahazar (Ex.P.6) and Seizure Mahazar (Ex.P.7) in the presence of witnesses Murugavel (P.W.11) and Dhakshnamoorthy (P.W.12).

3.3. The accused/Ramachandran and Juvenile Accused Moorthy surrendered before Soundarrajan, the Village Administrative Officer, Sooriyapalayam, (P.W.14), voluntarily gave a confession statement (Ex.P.10). P.W.14 has produced accused with the confession statement before the police with the Special report (Ex.P.11). The Investigation Officer further investigated the case and file a final report against the accused under Section 376 IPC r/w 3(2)(v) of the Prevention of Atrocities to SC & ST Act.

3.4. In the trial Court, the prosecution established its charge for an offence under Section 307 IPC, but failed to prove the charge under Section 376 IPC r/w 3(2)(v) of the Prevention of Atrocities to SC & ST Act. Hence, the accused/appellant found guilty for an offence under Section 307 IPC and convicted and imposed sentence of 10 years Rigorous Imprisonment with fine of Rs.2000/- in default six months Rigorous Imprisonment. Challenging this conviction and punishment, this Appeal has been filed.

4. The learned counsel for the appellant has submitted that the evidence of Kuppammal (P.W.1) is not reliable as it has lot of contradictions. Further, P.W.1 while deposing before the juvenile Court with regard to charge against juvenile accused Moorthy, she did not speak about the over-tact attributed against the accused in the trial Court. Further, the evidence of Sengottaiyan (P.W.2), Raja (P.W.3) and Sathiyamoorthy (P.W.4) are also not reliable. They may not be present at the time at the place of occurrence. They were introduced by the police for the purpose of the case. After the alleged occurrence Cithode police and Kaunthampadi police came to the place of occurrence and also recorded the statement of Kuppammal (P.W.1). The statement given to Cithode police was suppressed, the alleged witnesses Raja (P.W.3) and Sathiyamoorthy (P.W.4) have not supported the prosecution case before the Juvenile Court. They were treated as hostile witnesses but before the learned Sessions Court, they deposed against the accused. Further, the learned counsel for the appellant contended that Kuppammal (P.W.1) while giving statement before Dr.Karthikeyan (P.W.8)



never stated the name of the accused, only stated two persons were assaulted her. Sugavanam, Inspector of Police (P.W.16) recorded the statement of Kuppammal (P.W.1) while she was in hospital that statement was not produced before the Court and is not supported by any eyewitnesses. Evidence of Sengottaiyan (P.W.2), Raja (P.W.3) and Sathyamoorthy (P.W.4) are only hearsay evidence. They have not witnessed the occurrence. Further, contended that there is a difference of opinion between Kuppammal (P.W.1) and the accused with regard to balance salary from the accused. The accused was falsely implicated in the case. Relying upon the evidence of Kuppammal (P.W.1) alone is unsafe to convict the accused and reiterated other grounds raised in the grounds of appeal and thus pleaded to allow the appeal and to set aside the sentence imposed by the trial Court.

5.The learned counsel for the learned Additional Public Prosecutor submitted that Kuppammal (P.W.1) is the injured person, she deposed before the Court clearly about the occurrence. The accused is the known person to Kuppammal (P.W.1), she was severely assaulted with Aruval. A perusal of accident registered (Ex.P.2) clearly evidenced the fact of severe injury caused by the accused. There is no reason to disbelieve the evidence of victim (P.W.1). Immediately, after the occurrence Sengottaiyan (P.W.2) had seen the accused Ramachandran and juvenile Moorthy leaving from the place of occurrence in their two wheeler (M.O.6). Immediately, he witnessed the injured Kuppammal (P.W.1) and she asked his help. Sengottaiyan (P.W.2) immediately took the help of Raja (P.W.3) and Sathiyamoorthy (PW.4) who have sitting in the nearby place with their help they sent Kuppammal (P.W.1) to hospital through Ambulance. There is no reason to disbelieve the witness of Sengottaiyan P.W.2, Raja P.W.3 and Sathiyamoorthy P.W.4. The evidence of Kuppammal (P.W.1) is corroborated with medical evidence of Dr.Karthikeyan (P.W.8). The trial Court has rightly placed reliance upon the prosecution witnesses and found guilty under Section 307 of I.P.C., and convicted and sentenced the accused. There is no reason to interfere with the finding of the trial Court and thus, pleaded to dismiss the appeal.

6.Heard, learned counsel appearing for the appellant and learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

7.I have considered the matter in the light of the submissions made by the either side and materials on record.

8.According to the prosecution, Kuppammal (P.W.1) was assaulted with Aruval by the accused Ramachandran along with Juvenile accused Moorthy separated from this case. This accused was prosecuted before the trial Court for the charges under



Section Section 307 IPC and 376 IPC read with r/w 3(2)(v) of the Prevention of Atrocities to SC&ST Act, 1989. The trial Court after considering the evidence found guilty and convicted him for the offence u/s.307 IPC.

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9. Among the 17 witnesses Kuppammal (P.W.1) is a only person directly speaking about the occurrence. I have gone through evidence of Kuppammal (P.W.1) she clearly deposed that the accused Ramachandran was known to her and worked under him for some period and there was a due of salary of Rs.6000/- from him. On the occurrence date i.e., 17.07.2013 evening she met the accused at Chithode Santhai and demanded Rs.6000/- as a balance salary. Under the guise of paying money, he and the juvenile accused Moorthy, took her, in a bike (M.O.6) to the place of occurrence i.e., Kampulikadu place in between Thayirpalayam and Poolapalayam road where the accused called her for sexual intercourse, she refused so that he along with juvenile accused Moorthy assaulted her with Aruval and caused severe injuries. This incident was never witnessed by any other prosecution witnesses. But, immediately after the occurrence the accused and juvenile accused Moorthy left from the place of occurrence in his two wheeler (M.O.6) which was witnessed by Sathyamoorthy (P.W.4) who at the time came on the road in his two wheeler, hearing the voice of injured Kuppammal (P.W.1) seen her on the road with injuries to help her, he brought Sengottaiyan (P.W.2) and Raja (P.W.3) to the spot and arranged to send her to the Erode Government Hospital through Ambulance. This fact is clearly deposed by Sengottaiyan (P.W.2), Raja (P.W.3) and Sathyamoorthy (P.W.4) before the trial Court. There is no reason to dis-believe the evidence of Kuppammal (P.W.1). During the cross examination nothing has been brought on record, to dis-believe the version of Kuppammal (P.W.1). Apart from that, she was immediately found with injuries in the place of occurrence. Sengottaiyan (P.W.2), Raja (P.W.3) and Sathyamoorthy (P.W.4) had taken her to hospital through Ambulance. In the hospital Duraisamy, the Special Sub-Inspector of Police, (P.W.15) recorded the statement and registered the case in Crime No.280 of 2013 under Section 307 I.P.C. (Ex.P.13).

10. I have perused the evidence of Dr. Karthikeyan (P.W.8) who gave treatment to the victim. He found the following injuries upon her, which is recorded in the accident register in (Ex.P.2):

1. Lacerated wound 5x2 cm, 10x2 cm, 5x2 cm in the lower 1/3 of left forearm
2. Radius bone fracture and projected out
3. Fracture right thumb.
4. Crush injury lower 1/3 of right forearm
5. Laceration nape of neck 12x2 cm, 10x2 cm, 3x1 cm.



- 6.Laceration root of nose 3x1 cm in the cheek.
- 7.Abrasion face.
- 8.Laceration left hand 10x2 cm, 2x1 cm right knee.
- 9.6x1 cm laceration left scalp.

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Radiologist opinion from Salem Medical College
Fracture both left forearm,
Segmented fracture right ulna,
Near total amputation right thumb,
8 PPX 2nd 3rd 4th finger right hand,
2 fracture 1st and 3rd metatarsal right hand.

11.Doctor, further opined that the above said injuries may be caused by Aruval (M.O.2) which was seized by the Investigation Officer, Ramasamy, the Deputy Superintendent of Police, Gopichettipalayam (P.W.17) on the information furnished by the accused (Ex.P17) seized by Mahazar (Ex.P.12).

12.The above said evidence is accepted by the trial Court. I find no reason to reject the above said evidences.

13.In this case, the injured witness Kuppammal (P.W.1) gave consistent version of the occurrence, non-mentioning of name of the accused before doctor will not affect the prosecution case, minor contradictions, inconsistencies, omissions or improvements on trivial matters without affecting the case of the prosecution should not make the court to reject the evidence in its entirety.

14. The Rule of corroboration is only a rule of prudence. Where the sole evidence of the complainant is found to be thoroughly reliable and acceptable, there is no Rule of Law precluding the Court from convicting the accused solely on the basis of such evidence.

15.Thus, the prosecution only needs to lead evidence sufficient to prove its case. In this case, the prosecution had let the trustworthy evidence of victim of Kuppammal (P.W.1) immediately, attended by Sengottaiyan (P.W.2), Raja (P.W.3) and Sathyamoorthy (P.W.4) and these witnesses took the victim to hospital and Dr. Karthikeyan (P.W.8) found the injuries and treated her. The Weapon (M.O.2) was seized based on the disclose statement of the accused through Seizure Mahazar (Ex.P.12) by the Investigation Officer. Therefore, this Court finds no reason to take a different view, the prosecution had thus proved all necessary facts. In view of these facts having been proved beyond a reasonable doubt, this Court finds no infirmity in the reasoning of the trial Court in the impugned judgement. Therefore, dismiss the appeal.

16.In the result, this Criminal Appeal stands dismissed.



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17.The State Legal Service Authorities is directed to pay remuneration to Mr.R.Ganesh, Legal aid counsel, as per Rules.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

vsn

To

1.The Principal Sessions Judge, Erode.

2.The Deputy Superintendent of Police,
Gobichettypalayam Sub-Division,
Erode District.

3.The Public Prosecutor,
High Court, Madras.

4.The Superintendent,
Central/Prison, Coimbatore.

Copy to :

The Member Secretary,
Tamil Nadu State Legal Services Authority,
High Court Buildings,
Chennai-104

+1cc to M/S.R.Ganesh Legal Aid Counsel, S.R.No.68743

Cr1.A.No.240 of 2016

KJ(CO)
SB(04/01/2022)