



BAIL SLIP

The Petitioner/ Accused No.1 namely Robert Anthony Raj S/o. Arokiyadoss directed to be released on bail as per the order of this Court dated 20/01/2017 made in CrI.MP. No.14053 of 2016 in CrI.R.C.No.1690 of 2016 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2021

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

CrI.R.C.No.1690 of 2016

Robert Anthony Raj

...Petitioner/Accused

Vs.

State represented by
The Inspector of Police,
All Women Police Station,
Sirkazhi, Nagapattinam District.
(Crime No.2 of 2008)

...Respondent/Complainant

Criminal Revision Case filed under Section 397 r/w. 401 Cr.P.C., praying to set aside the judgment dated 21.04.2016 made in CrI.Appeal No.3 of 2014 on the file of the Sessions Judge, (Fast Track Mahila Court) Nagapattinam, in confirming the Judgment dated 08.01.2014 made in C.C.No.117 of 2009, on the file of the Judicial Magistrate Court, Sirkazhi, Nagapattinam District.

For Petitioner : Mr.C.Prabakaran

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

ORDER

This Criminal Revision Case has been preferred challenging the judgment dated 21.04.2016 passed in CrI.Appeal No.3 of 2014 by the Sessions Judge, (Fast Track Mahila Court) Nagapattinam, confirming the judgment dated 08.01.2014 passed in C.C.No.117 of 2009 by the Judicial Magistrate, Sirkazhi.



2. The first accused is the revision petitioner herein.

3. The revision petitioner and P.W.1 victim woman were in love with each other for 3 years prior to the complaint; during that time, the revision petitioner compelled P.W.1 to have sexual intercourse with him; when she refused, he convinced her that he would marry her; on the said assurance, he ravished her and this had occurred repeatedly; because of that P.W.1 got conceived; even thereafter, he was continuously giving assurance that he would marry her and protracted time; in the meanwhile, P.W.1 had also given birth to a male child on 13.04.2008; subsequent to the birth of the child, P.W.1 was humiliated and threatened by A2 & A3 (parents of the first accused); after the child was born, the revision petitioner disowned his very paternity to the child; thereafter, P.W.1 has preferred this complaint.

4. On the complaint given by P.W.1, a case was registered by P.W.15 - Inspector, Senthamarai in Crime No.2 of 2008 under Sections 294(b), 506(2) IPC and 417 r/w 4 of the Tamil Nadu Prohibition of Harassment of Women Act. P.W.15 - Inspector, took up the case for investigation, went to the place of occurrence, prepared observation Mahazar and rough sketch in the presence of witnesses, examined some of the witnesses and sent the victim and the accused individually for medical examination. P.W.16 - Shanmugam had produced the victim, the accused and the child born to P.W.1 on the order of the Court for taking their blood sample for DNA test and got DNA test done for them. P.W.17 - Murugavel, continued the investigation and re-examined the witnesses and thereafter, P.W.19 - Thamilselvam examined the expert who has done the DNA test and completed the investigation and filed the charge sheet against the accused under Sections 294(b), 506(2) and 417 IPC r/w Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act.

5. After the case was taken on file and on perusal of the materials available on record and having satisfied of the prima facie case, the learned trial Judge framed the charges against the accused for the offences under Sections 294(b), 506(2) and 417 IPC r/w Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act. When the accused were questioned, they pleaded innocence and claimed to be tried. Hence, the trial was conducted.

6. During the course of trial, on the side of the prosecution, 19 witnesses were examined as P.W.1 to P.W.19 and 13 documents were marked as Exs.P1 to P13. On the side of the defence, no witness was examined and no document was marked.



7. At the conclusion of the trial and on consideration of the materials available on record, the learned trial Judge convicted the first accused as under:-

S.No.	Provisions under which convicted	Sentence
1	Section 417 of IPC	One year Simple Imprisonment and Rs.50,000/- as compensation to P.W.1

8. Aggrieved over the above said judgement, the first accused has preferred an appeal before the Sessions Court, Nagapattinam and that was also dismissed by confirming the judgement of the trial Court. Aggrieved over that, the first accused has filed this present revision case.

9. The fact that P.W.1 and the revision petitioner were in love with each other was not denied.

10. Heard the learned counsel for the revision petitioner/first accused and the learned Government Advocate (Criminal Side) appearing for the respondent State.

11. The learned counsel for the revision petitioner/first accused submitted that there is a delay in lodging the complaint and the revision petitioner did not have any intention to cheat P.W.1. The evidence of P.W.1 would show that he has not given any false assurance and that the Courts below have not appreciated the evidence in a proper perspective and hence, this criminal revision has to be allowed.

12. The learned Government Advocate (Criminal Side) appearing for the respondent State submitted that the paternity of the child itself has been proved through the DNA test (Ex.P13); the DNA test shows that the first accused is the father of the child born to P.W.1; the Courts below have rightly appreciated the evidence on record. Hence, this revision case has to be dismissed.

13. Points for consideration:-

Whether the conviction and sentence of the accused for the offence under Section 147 IPC by the learned Judicial Magistrate based on the materials available on record is fair and proper?

14. The fact that the first accused was known to P.W.1 was not in dispute. They were loving each other for quite sometime. During that course, it was alleged by P.W.1 that she was compelled to have sexual intercourse with the accused and when she refused, he would assure that he would marry her. In view of the said assurance, P.W.1 was made to fulfil the



sexual intention of the revision petitioner. Since the occurrence have been repeated for quite sometime that resulted in the pregnancy of P.W.1. Even thereafter, P.W.1 was continuously requesting the first accused to marry her but for which, the first accused refused. He has not only refused but even refused his very paternity for the child. From the DNA test report (Ex.P13), it is established before the Court that the first accused is the father of the male child born to P.W.1 on 13.04.2008.

15. So the above facts would unfailingly prove the involvement of the revision petitioner in cheating P.W.1 by giving false assurance of marriage. Despite there is delay in filing the complaint that is not fatal to the case of the prosecution and this is especially so when there is no change in the paternity of the child born to the victim. The consent of P.W.1 was obtained by the first accused on the assurance of marriage. Thereafter, he did not have the mind to honour his promise, she had to deliver a child even before marriage. In view of that P.W.1 has become an unwed mother. It is needless to tell that the life of P.W.1 would be horrible. Despite the accused was proved to be the father of the child born to P.W.1, he continued to contest the case and took up the case on appeal and thereafter, filed this Criminal Revision Case. Such conduct of the first accused would show that he has no remorse for what he has done but was protracting the matter as per his wishes.

16. Because of the false assurance given by the first accused, P.W.1 was influenced to give her consent to the first accused and allowed him to cause irreparable damage to her physical and mental integrity. So the loss sustained by P.W.1 on the false assurance given by the first accused is evident through the birth of the child also. The conduct of the first accused in refusing to marry P.W.1 after the child was born, would show that he did not have intention of not honouring his promise from the very inception. So the criminal intention of the accused is writ large from his conduct and hence, the Courts below are right in finding the accused guilty for the offence under Section 417 of IPC. Hence, I find no factual or legal infirmity and does not warrant any interference.

17. The learned trial Judge awarded Rs.50,000/- as compensation to be payable by the petitioner and it is said to have been paid but the sufferings and loss undergone by P.W.1 is something irreparable and that cannot be compensated with the amount of Rs.50,000/-. P.W.1 has got the burden to bring up his son and she also faces the embarrassment in the society where she needs to live. She does not seem to be economically sound also to support herself and the child. Taking into consideration of all these factors, I feel that P.W.1 has to be reasonably compensated under the Women Victim Compensation Scheme.



In the result, this Criminal Revision Case is dismissed and the judgment dated 21.04.2016 passed in CrI.Appeal No.3 of 2014 by the Sessions Judge, (Fast Track Mahila Court) Nagapattinam is confirmed.

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Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate,
Sirkazhi.

2.The Chief Judicial Magistrate,
Nagapattinam.

3.The Sessions Judge, (Fast Track Mahila Court),
Nagapattinam.

4.The Public Prosecutor,
High Court, Madras.

5.The Inspector of Police,
All Women Police Station,
Sirkazhi, Nagapattinam District.

+2ccs to Mr.C.Prabakaran, Advocate SR. Nos.66723, 66349

CrI.R.C.No.1690 of 2016

PCH (CO)
PR (09/02/2022)