



BAIL SLIP

The Appellant/Accused namely Vallavan, S/o.Appu, was directed to be released on bail as per order of this Court dated 09.11.2017 in Crl.M.P.No.13940 of 2017 in CRL.R.C.NO.1414 OF 2017 on the file of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE OF RESERVING ORDER 10.08.2021	DATE OF PRONOUNCING ORDER 22.09.2021
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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRL.R.C.NO.1414 OF 2017

Vallavan
S/o.Appu

.. Petitioner/
Appellant/Accused

Vs.

The State represented by
The Inspector of Police,
All Women Police Station,
Kondalampatti Police Station,
Salem.
(Crime No.5 of 2014)

.. Respondent/
Respondent/Complainant

PRAYER : Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to set aside the order of conviction and sentence passed by a judgment dated 28.07.2017 made in Criminal Appeal No.116 of 2015 on the file of the Principal Sessions Court, Salem in confirming the judgment dated 13.07.2015 made in C.C.No.41 of 2014, on the file of the Judicial Magistrate (Additional Mahila Court), Salem.

For Petitioner : Mr. C. Prabakaran

For Respondent : Mr. R. Vinoth Raja,
Government Advocate

O R D E R

The matter is heard through "Video Conference".

2. The convicted sole accused is the revision petitioner herein. The respondent-police filed charge sheet alleging that



the accused has committed an offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998 (herein after referred to as 'the Act').

3. After trial, the learned Magistrate, convicted the accused for the commission of offence under Section 4 of the Act and on appeal in C.A.No.116 of 2015, the same was dismissed and hence, the revision.

4. Heard both sides.

5. The petitioner was implicated in a criminal case at the instance of the defacto complainant namely Monisha (P.W.1) alleging that while she was riding a two wheeler on 11.06.2014 at 12.00 noon while she was proceeding to the shop for purchase of a dish wash bar, the petitioner abused and pulled her hand and tried to misbehave and upon which, a complaint was lodged with the respondent-police and a case was registered in Crime No.5 of 2014 for the offences punishable under Section 4 of the Act.

6. The respondent-police upon investigation have filed the positive final report and the same was taken cognizance by the learned Judicial Magistrate (Additional Mahila Court), Salem in C.C.No.41 of 2014 and the prosecution have let in evidence of seven witnesses and marked four exhibits.

7. The petitioner found guilty of the offence and also convicted the petitioner by imposing the sentence of one year rigorous imprisonment and Rs.10,000/- fine, in default to undergo three months simple imprisonment by an order dated 13.07.2015.

8. Aggrieved by the said judgment of the trial Court, the petitioner preferred an appeal before the Principal Sessions Court, Salem in C.A.No.116 of 2015 and the learned Appellate Judge also mechanically reiterated the findings of the trial Court and confirmed the judgment dated 28.07.2017, passed by the trial Court. Hence, the revision.

9. The learned counsel for the petitioner would contend that except the evidence of P.W.6, there is no other independent eye witness and even the evidence of P.W.6 is contrary to the evidence of P.W.1 and after contended that P.W.2 in the cross examination had admitted there was a previous enmity between the accused family and P.W.1 and hence, a false case has been foisted against them.

10. This Court has given its anxious consideration. As per the prosecution case, on 11.06.2014 at 12.00 p.m., while the



defacto complainant proceeded to the Grocery shop for purchasing a Dish wash bar, the accused came from the opposite side and abused her by using filthy language and pulled her hand and tried to kiss her. Hence, the accused has been charged for an alleged offence punishable under Section 4 of the Act. In order to prove the guilt of the accused, the prosecution has examined seven witnesses and exhibited four documents.

11. The defacto complainant was examined as P.W.1 and she had deposed that she is the resident of Natamangalam, Kondalampatti Village, on 11.06.2014 at 12.00 pm while she was proceeded to the shop to purchase a dish wash bar, the accused came from the opposite side in the motorcycle and abused her by using filthy language and pulled her hand and tried to kiss her and the same was prevented by her and she intimated the same to her grandmother, subsequently, after arrival of her mother she went to police station on the same day at 5.00 pm and lodged Ex.P1 complaint before the police.

12. P.W.6/Suresh is the ocular witness, he deposed in his evidence that, on 11.06.2014, he went to Nattamangalam at 12 p.m., nearer to the grocery shop are the accused pulled the hand of P.W.1 and tried to kiss her, when the same was questioned by him, the accused ran away from the place of occurrence.

13. On combined reading of P.W.1 and P.W.6, the act of the accused with P.W.1 is clearly demonstrated. Though, defence theory was projected that (P.W.2 Radhika mother of the victim) there was a dispute between herself and accused family. However, such admission could not bloom large to probabilise the suggestive case. P.W.1 is a unmarried girl, to foist the false case against the alleged accused, alleging that the accused abused her using filthy language and pulled her hand and tried to kiss her and hence, no women would come forward to defame herself in a pity manner and hence, I find that the defence case projected by the accused is only for the sake of the defence.

14. In view of the clear and cogent evidence of P.W.1, which is duly corroborated by P.W.6, the occurrence witness and in the absence of any suggestion to probabilise the defence theory, both the Courts below have rightly come to the conclusion that the accused had committed the offence under Section 4 of the Act and accordingly, laid the conviction. Therefore, conviction ordered by both the Courts below are legally sustainable.

15. On the point of quantum of punishment, after going through the alleged act, I find that the period of sentence be reduced from one year to two months and fine amount, as awarded by the trial Court is hereby confirmed.



16. Accordingly, the criminal revision case is partly allowed. The conviction passed under Section 4 of the Act, in C.C.No.41 of 2014 as confirmed in C.A.No.116 of 2015 is hereby confirmed. The sentence awarded by the Courts below of one year rigorous imprisonment shall stand modified and reduced to two months and the fine amount awarded is kept intact. The period of custody during the investigation and the trial, if any, is ordered to be set off. The Magistrate is directed to issue non-bailable warrant and secure the accused to undergo the remaining period of sentence awarded.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Inspector of Police,
All Women Police Station,
Kondalampatti Police Station,
Salem.
- 2.The Principal Sessions Court,
Salem.
- 3.The Judicial Magistrate (Additional Mahila Court),
Salem.
- 4.-Do-Thro Chief Judicial Magistrate
Salam.
- 5.The Public Prosecutor, (Crl.Side)
High Court of Madras.

+1cc to Mr. C. Prabakaran, Advocate, S.R.No.48451

Crl.R.C.No.1414 of 2017

SRA (CO)
PM/01/11/2021