



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2021

CORAM:

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

Crl.R.C.No.395 of 2017

Faiz Ahamed

... Petitioner

Vs.

State rep. by
Inspector of Police,
Katpadi Railway Police Station,
Vellore District.
(Crime No.342/2013)

... Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C., praying to call for the records on the file of the learned Additional District Judge, (Fast Track Court), Vellore, Vellore District in Crl.A.No.50 of 2015 dated 08.12.2016 confirming the judgment in C.C.No.598 of 2014 on the file of the learned Judicial Magistrate No.IV, Vellore, Vellore District dated 04.09.2015 and set aside the judgment dated 08.12.2016.

For Petitioner : Mr.E.Kannadasan

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

O R D E R

This Criminal Revision has been preferred challenging the judgment of the learned Additional District Judge (Fast Track Court), Vellore dated 08.12.2016 made in Crl.A.No.50 of 2015.

2. This case has arisen out of the complaint (Ex.P1) given by PW1 on 18.09.2013. The short facts of the prosecution case is that on 17.09.2013, the de facto complainant (PW1) was travelling along with her mother in Dehradun to Madras Express and they travelled in Coach No.S2. PW1 was given with the middle berth No.18 and her Mother was allotted berth No.17. The accused was travelling in the same coach and he was placed in berth No.19. During night hours, the accused, who was sleeping



in the upper berth, had touched the breast of PW1 from upper berth. He once again did the same when he was about to get down at Katpadi. At that point of time also he touched PW1 misappropriately. PW1 shouted and thereafter, the Railway police got alerted. This was witnessed by other passengers and subsequently, PW1 gave a complaint (Ex.P1). On the basis of Ex.P1-complaint, PW4 registered the case in Crime No.342 of 2013 of Katpadi Railway Police Station for the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998. PW5 is the Investigation Officer, who had investigated the case by examining the witnesses, filed the charge sheet against the accused under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998.

3. After the case was taken on file and the accused appeared, copies were furnished to him and he pleaded innocent. Since there are sufficient materials to frame charge under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, charge was framed and the accused was questioned. The accused denied the charge and claimed to be tried.

4. During the course of trial, on the side of the prosecution, five witnesses were examined as PW1 to 5 and two exhibits were marked as Exs.P1 and P2. On the side of the defence, no witness was examined and no document was marked. After considering the materials on record, the learned trial Judge found the accused guilty for the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and convicted the accused and sentenced him to undergo one year Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default to undergo simple imprisonment for a period of three months. The appeal preferred by the accused in C.A.No.50 of 2015 was also dismissed and the judgment of the trial Court was confirmed. Aggrieved over that the petitioner/accused has preferred this Criminal Revision Case.

5. The learned counsel for the petitioner submitted that the Courts below have not appreciated the evidence in a proper perspective and omitted to give significance to the contradictions. It is also submitted that some of the material witness have not been examined and the same creates doubt.

6. The learned Government Advocate (Crl.Side) appearing for the State submitted that PW1 is the victim and her evidence has been correctly appreciated by the Courts below and there is no



reason for PW1 to give any false complaint against the accused. Hence, he submitted that the judgments of the Courts below warrant no interference.

WEB COPY

7. Point for consideration:

Whether the conviction and sentence of the accused for the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act by the learned Sessions Judge basing on the materials available on record is fair and proper?

8. On perusal of the complaint given by PW1/de facto complainant, it is seen that she was working as an Assistant Professor in National Institute of Technology. On 17.09.2013 she was travelling in the DDN-MAS train along with her mother. She was given with berth No.18 and her mother was given berth No.17 in S2 coach. The accused, who was a business man, was also travelling in the same coach and he was in berth No.19. In view of the said reason, the accused had to sleep on the upper berth.

9. PW1 in her evidence, had deposed the manner in which the accused misbehaved with her during that midnight. Since the accused was travelling in upper berth, he took advantage of the situation. Berths are placed in trains in such a way that the person sleeping on the upper berth can touch the person on the middle berth. PW1, being an educated and reputed person need not give a false complaint by causing embarrassment to herself. A The accused is total stranger and hence PW1 and her family can not have any motive against the accused. If a woman undergoes such kind of sexual harassment in public, the sudden feeling which would engross her would be shame and embarrassment. It spoils their mental peace and intrudes into their private space. Since PW1 was travelling with her mother, it would have caused agitation in the mind of her mother also. The accused did not stop disturbing her and he repeated his cheap act by thinking that PW1 would not dare to complain. When he was about to get down at his station Katpadi, he once again touched her inappropriately. This escalated the tension and PW1 swiftly caught hold of him and dealt him in public. Thereafter he was handed over to police.

10. The learned Trial Judge has adverted into the evidence of prosecution and appreciated it in a proper perspective. In the absence of any previous enmity or motive between the de



facto complainant and the accused, I find no reason to reject the evidence of PW1, which played the bedrock for the findings of the lower courts.

11. Though the learned counsel for the petitioner submitted his arguments on merits, at the conclusion of his arguments, he requested this Court to show indulgence in the matter of punishment. The learned counsel for the petitioner submitted that the accused is not a habitual offender and he does not have any criminal antecedence. The accused is said to have paid the entire fine amount and he had also undergone one month simple imprisonment and hence the period already undergone by the accused may be treated as punishment.

12. Taking into consideration of the submission made by the learned counsel for the petitioner, I feel that the fine imposed by the trial Court should be enhanced from Rs.10,000/- to Rs.25,000/- and the accused should be convicted and sentenced to the period of imprisonment already undergone by him.

13. In the result, this Criminal Revision case is partly allowed. The judgment of the Appellate Court is modified to the extent that the accused is found guilty for the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and he has been convicted and sentenced to undergo Simple Imprisonment for a period of imprisonment already undergone by him and to pay a fine of Rs.25,000/- (Rupees Twenty Five Thousand only), within a period of two(2) weeks from the date of receipt of a copy of this order, in default, to undergo 2 weeks Simple Imprisonment. The fine amount if any already paid by the accused can be adjusted with the fine now imposed and the balance fine should be collected.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

kmi

To

1. The Additional District Judge,
(Fast Track Court),
Vellore, Vellore District.



2.The Judicial Magistrate No.IV,
Vellore,
Vellore District.

3.The Inspector of Police,
Katpadi Railway Police Station,
Vellore District.

4.The Public Prosecutor,
High Court of Madras,
Chennai-600 104.

+1cc to Mr.E.Kannadasan, Advocate Sr.61617

Cr1.R.C.No.395 of 2017

kv[co]
srg 16/12/2021