



Bail Slip

The Appellant/Accused namely P. Kumar S/o. Pandurangan was directed to be released on bail and by the order of this Court dated 30.09.2014 and made in Crl.M.P. No. 1/2014 in Crl.R.C. No. 1008/2014 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2021

CORAM:

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

Crl.R.C.No.1008 of 2014

P.Kumar

...Petitioner

Vs.

State represented by the
Station House Officer,
All Women Police Station,
Pondicherry.

...Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C praying to set aside the judgment in Criminal Appeal No.8 of 2013 on the file of the Principal Sessions Judge, Pondicherry dated 25.08.2014 confirming the Judgement in C.C.No.28 of 2010 on the file of the Chief Judicial Magistrate, Puducherry dated 20.08.2013 and allow the above Criminal Revision Case.

For Petitioner : Mr.B.Balavijayan

For Respondent : Mr.Balamurugane

Public Prosecutor (Puducherry)

O R D E R

This Criminal Revision has been preferred challenging the judgment of the learned Principal Sessions Judge, Pondicherry dated 25.08.2014 made in C.A.No.8 of 2014 confirming the judgment of the learned Chief Judicial Magistrate, Pondicherry dated 20.08.2013 made in C.C.No.28 of 2010.



2. The case of the prosecution is that the accused is known to the de facto complainant PW1 through her Sister/PW3. PW1 was engaged in taking Tuition along with her Sister for school children at her house. The accused, who was working as a Hospital Ward Attender, used to come to their house and associate with them. During that point of time, he developed intimacy with PW1 and induced her to have sexual relationship with him by promising that he would marry her. At the request of the accused, PW1 had given her 10 sovereigns of gold jewels to the accused for meeting out his financial needs. After the accused shifted his job to some other hospital he stopped meeting the de facto complainant/PW1. He also avoided to talk with her through phone. PW1 came to know that the accused was going to marry some other girl. Thereafter, she lodged the complaint stating that he had cheated her.

3. On the complaint given by PW1, a case was registered in Crime No.14 of 2009 of All Women Police Station, Pondicherry under Sections 417 and 420 IPC by PW6/Krishnaveni-Sub Inspector of Police. She took up the case for investigation, enquired the witnesses and went in search of the accused. In the meantime, the accused got anticipatory bail. She sent the victim and the accused for Medical examination and recorded the statement of the Doctor, who conducted the Medical examination and got Medical certificates. After completing her investigation, she filed the charge sheet against the accused for the offence under Sections 417 and 420 IPC.

4. After the case was taken on file and on being satisfied with the materials available on record, the learned trial Judge framed the charges against the accused for the offences under Sections 417 and 420 IPC. When the accused was questioned, he denied the charges and claimed to be tried and hence, the trial was conducted.

5. During the course of the trial, on the side of the complainant, 6 witnesses have been examined as PW1 to PW6 and 4 documents were marked as Exs.P1 to P4. On the side of the defence, 2 witnesses have been examined as DWs1 and 2 and no document was marked.

6. At the conclusion of trial and on considering the materials available on record, the learned trial Judge found the accused guilty for the offence under Section 417 IPC and convicted and sentenced him to undergo Rigorous Imprisonment for Four months. The appeal preferred by the accused before the



learned Principal Sessions Judge, Puducherry in C.A.No.8 of 2013 was also dismissed by confirming the Judgment of the trial Court. Aggrieved over that the accused has preferred the present revision.

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7. Heard the learned counsel for the revision petitioner and the learned Public Prosecutor (Puducherry) appearing for the respondent. Perused the entire materials available on record.

8. The learned counsel for the revision petitioner/accused submitted that PW1, who is the victim of this case is five years elder than the accused and she was able to understand the consequences of her relationship with the accused and hence, no act of cheating was committed. He further submitted that the complaint has been given only after four years after the occurrence and hence it is not reliable. In support of his contention, he cited the judgments reported in 2012 (2) L.W (Cr1). 101 (K.U.Prabhu Raj Vs. State and another) and 2008 (4) CTC 629 (P.Govindan Vs. The State).

9. The learned Public Prosecutor (Puducherry) appearing for the respondent submitted that the accused had induced the victim to have sexual relationship on the assurance that he would marry her. After some time, he refused to marry her by stating that she is elder than him and that she belonged to Scheduled Caste community. That would show the intention to cheat the victim and hence, the Revision has to be dismissed.

10. Point for consideration:-

Whether the finding of the guilt of the accused for the offence under Section 417 IPC by the learned Sessions Judge based on the materials available on record is fair and proper?

11. The fact that the accused and PW1 were known to each other is not in dispute. The accused gained intimacy with PW1 by associating himself in the Tuition classes taken by PW1 and PW3 at their house. During that time, the accused assured to marry PW1 and had sexual relationship with her on several occasions. After some time, the accused stopped calling her and avoided her contact. When PW1 learnt that the accused was making efforts to marry someone else, she knocked the doors of justice.

12. In the context of the events that has alleged by the State that the delay is natural and incidental. In these type of matters, the delay in preferring the complaint can not taken



as serious. Because only after knowing the intention of the accused that he cheated PW1 from his subsequent conduct, the prosecution came forward to give the complaint. It is submitted by the learned counsel for the petitioner that the victim/PW1, is 5 years elder than the accused and hence she might be knowing the consequences of her acts and the accused cannot be convicted for the offence of cheating.

13. From the facts of the case, it is seen that the accused was working as a ward attender at the hospital and PW1 was taking home tuition to some students and that she belongs to Scheduled Caste. The Socialisation and the exposure to her world, when comparing to the accused is very less only. Despite the victim was 5 years elder than the accused, she is at a disadvantageous position in the Society and that is the reason for her vulnerability to the false promises made by the accused. By believing his words, she offered her "person" to him.

14. The learned counsel for the petitioner relied on the decision of this Court held in the case of K.U.Prabhu Raj Vs. State and another and reported in 2012 2 LW 101 in order to substantiate his point that he has proved before the Court that there were deception and dishonest intention and hence a case of cheating is made out. In the case on hand, the victim was deceived by the accused on a promise to marry someone else. His dishonest intention is patent through subsequent refusal to marry her by telling that she belonged to Scheduled Caste. The fact about her community was well within the knowledge of the accused even while he developed contacts and relationship with PW1. Knowing fully well that he is not intended to marry a girl belonging to Scheduled Caste, the accused gave promise to marry her and induced her to have sexual relationship with him. After using the victim girl sexually, he refused to marry her by telling the reason that she belonged to Scheduled Caste. This will clearly show the dishonest intention of the accused.

15. In yet another judgment of this Court held in the case of P.Govindan Vs. The State and reported in 2008 4 CTC 629, it is seen from the facts that the accused of that case had expressed his apprehension that his father would not agree for their marriage, even while they were in the relationship. So, the facts of that case is not applicable to the facts of this case on hand. This case is entirely based on a different factual matrix. Since the prosecution could prove both the act of deception and dishonest intention of the accused, the Trial Court is right in recording the guilt of the accused for the offence under Section 417 IPC. The Appellate Court also had



rightly appreciated its correctness and confirmed it. Hence, I do not find any factual or legal infirmity in the judgments of the Courts below.

16. In the result, this Criminal Revision is dismissed. The judgment dated 25.08.2014 made in C.A.No.8 of 2013 on the file of the learned Principal Sessions Judge, Pondicherry is hereby confirmed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

kmi

To

1.The Principal Sessions Judge,
Pondicherry.

2.The Chief Judicial Magistrate,
Pondicherry.

3.The Station House Officer,
All Women Police Station,
Pondicherry.

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

+1 CC to Mr.B.Balavijayan, Advocate sr 69722.

Cr1.R.C.No.1008 of 2014

KSM(CO)
SP(16/02/2022)