



WEB COPY



CRL.R.C.No.15 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2022

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C.No.15 of 2018

Selvam

... Petitioner

Vs.

The State represented by
The Sub-Inspector of Police,
K-4, Anna Nagar Police Station,
Chennai.

... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C to set-aside the judgment confirmed by the Learned XIX Additional Sessions Judge at Chennai in C.A.No.174 of 2017 dated 16.12.2017 which was passed by the Learned V Metropolitan Magistrate, Egmore at Allikulam, Chennai by order dated 15.06.2017 in C.C.No.1784 of 2015.

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



CRL.R.C.No.15 of 2018

WEB COPY

ORDER

This Criminal Revision case has been filed to set-aside the judgment confirmed by the Learned XIX Additional Sessions Judge at Chennai in C.A.No.174 of 2017 dated 16.12.2017 which was passed by the Learned V Metropolitan Magistrate, Egmore at Allikulam, Chennai by order dated 15.06.2017 in C.C.No.1784 of 2015.

2. The case of the prosecution is that the victim is running a provisions shop at No.207 at the junction of Annai Sathya Nagar, 9th Street and 2nd Main Road. While being so, on 16.05.2015, at 10.30 a.m., when the victim and her husband were in the shop, the petitioner came to the shop and asked for water packet and plastic tumbler. When the victim said that whatever the things asked by the petitioner were not available, immediately the petitioner scolded the victim in filthy language. Again, on 18.05.2015, the petitioner went to the victim shop and scolded her in filthy language and also he removed his inner wear and he stood nudely in front of the shop. Immediately, the victim lodged a complaint.



CRL.R.C.No.15 of 2018

WEB COPY

3. After completion of investigation, the respondent filed a final report and the same has been taken cognizance in C.C.No.1784 of 2015 by the Trial Court for the offences punishable under Sections 294(b), 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act.

4. On the side of the prosecution, P.W.1 to P.W.10 were examined and Exs.P.1 to P.6 were marked. On the side of the petitioner, no one was examined and no document was marked. On perusal of oral and documentary evidence, the Trial Court found the petitioner guilty for the offence under Section 294(b) of IPC and awarded compensation for a sum of Rs.1000/-, in default, undergo two weeks simple imprisonment. He was also convicted for the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and sentenced him to undergo one year simple imprisonment and awarded compensation for a sum of Rs.5000/-, in default, undergo one month simple imprisonment. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed, confirming the order passed by the Trial Court. Hence, this revision.



CRL.R.C.No.15 of 2018

WEB COPY

5. The learned counsel for the petitioner would submit that the prosecution examined 10 witnesses. The victim was examined as P.W.1 and her husband was examined as P.W.2. According to the defacto complainant, P.W.1 had lodged a complaint even on 16.05.2015. However, the Investigation Officer, who was examined as P.W.10, denied and stated that he had never received any complaint on 16.05.2015. Therefore, there was no occurrence took place on 16.05.2015. Further, for the occurrence taken place on 16.05.2015, P.W.1 lodged a complaint on 18.05.2015 and the same was registered in Crime No.492 of 2015 for the offences punishable under Sections 294(b), 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. That apart, there was contradiction of P.W.1 and P.W.2 and the prosecution failed to prove the case beyond any doubt. He further submitted that neighbour shop owner was examined as P.W.3. In his chief examination, he deposed that he owned shop near to the victim's shop. In cross examination, he said that he owned shop after ten shops from the victim's shop. The distance between both the shops is 150 metres. P.W.3 also stated that he did not see the occurrence and he is only an ear-say witness. P.W.4 also



CRL.R.C.No.15 of 2018

deposed that he is only an ear-say witness and he did not see the occurrence. Even then the Courts below convicted the petitioner. There was no threatening even according to the prosecution and no evidence is made out under Section 506(i) of IPC. On the same date of occurrence, the petitioner was arrested and remanded to judicial custody.

6. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that there was no contradiction between P.W.1 and P.W.2 who are the eye witnesses to the occurrence. Though, the Investigation Officer denied that P.W.1 did not lodge any complaint on 16.05.2015, the said complaint has nothing to do with the subsequent occurrence took place on 18.05.2015. The FIR was registered for the occurrence took place on 18.05.2015 and as such the Trial Court rightly convicted the petitioner. There was no allegation to attract the offence under Section 506(i) of IPC and as such the Trial Court rightly acquitted the petitioner for the offence under Section 506(i) of IPC. P.W.3 and P.W.4 are also eye witnesses to the occurrence and they categorically deposed that there was quarrel in front of the victim's shop by the



CRL.R.C.No.15 of 2018

petitioner herein. Therefore, the minor discrepancies and the contradictions pointed out by the learned counsel for the petitioner would not affect the prosecution case when the evidence of P.W.1 and P.W.2 are trust worthy, cogent and corroborated by the testimonies of the other witnesses irrespective of the fact that they have turned hostile later on.

7. Heard, Mr.R.Lingakumar, learned counsel appearing for the petitioner and Mr.A.Gopinath, learned Government Advocate (Crl. Side) appearing for the respondent.

8. The petitioner is a sole accused. On the complaint lodged by P.W.1, the respondent registered an FIR in Crime No.492 of 2015, for the offences punishable under Sections 294(b), 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. After completion of investigation, the respondent filed a final report and the same has been taken cognizance in C.C.No.1784 of 2015 by the Trial Court. The prosecution had examined P.W.1 to P.W.10. P.W.1 is the victim and her husband was examined as P.W.2. On 16.05.2015, the



CRL.R.C.No.15 of 2018

petitioner visited the victim's shop and asked her water packet and plastic tumbler. The victim told that both were not available in her shop. Then, the petitioner scolded her in filthy language. When it was questioned by P.W.2, the petitioner threatened that he will remove his dress and he will stand nudely in the road in front of their shop. He also scolded them in filthy language. According to P.W.1, she lodged a complaint on the same day. However, it was not accepted and no FIR was registered. While being so, again on 18.05.2015, the petitioner went to the shop of the victim and scolded her in filthy language in public. He also removed his inner wear and stood nudely in front of their shop. It was seen by P.W.3 and P.W.4. P.W.2 is the husband of P.W.1. He was also present at the time of occurrence. P.W.3 and P.W.4 deposed cogently and corroborated each other. Though, they deposed that they had seen the occurrence in their chief examination, in the cross examination, they deposed that they heard about the occurrence. Though they deposed as ear-say witnesses, there was occurrence on 18.05.2015. Even according to P.W.1, she had lodged a complaint on 16.05.2015, the same was not taken by the respondent and no FIR was registered. Again, on 18.05.2015, the



CRL.R.C.No.15 of 2018

petitioner went to the shop of P.W.1 and scolded her in filthy language.

Therefore, the non registration of FIR or non receipt of the complaint for the occurrence took place on 16.05.2015 has nothing to do with the subsequent occurrence which was taken place on 18.05.2015. Therefore, both the Courts below rightly convicted the petitioner for the offence punishable under Section 294(b) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. Both the Courts below rightly acquitted the petitioner for the offence punishable under Section 506(i) of IPC, since even according to the prosecution, the petitioner never threatened P.W.1 with dire consequences.

9. Therefore, this Court finds no infirmity or illegality in the orders passed by the Courts below. However, insofar as the sentence is concerned, the petitioner was arrested and remanded to judicial custody on the date of occurrence viz, 18.05.2015, he was incarcerated and imprisoned for quite reasonable time. Subsequently, he was released on bail.



CRL.R.C.No.15 of 2018

WEB COPY

10. Considering the above facts and circumstances, this Court feels that it would be appropriate to modify the sentence alone, imposed by the Courts below, for the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. Accordingly, the sentence for the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, which was imposed by the Courts below to undergo one year simple imprisonment, is reduced to the effect that the period which was already undergone by the petitioner would remain as the sentence and the petitioner is directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the Trial Court, in default, the petitioner shall undergo one month simple imprisonment. The victim is permitted to withdraw the fine amount paid by the petitioner before the Trial Court, by filing an appropriate application before the Court below, in the manner known to law.

11. Accordingly, this Criminal Revision case is partly allowed.

10.10.2022

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mn



WEB COPY



CRL.R.C.No.15 of 2018

G.K.ILANTHIRAIYAN, J

mn

To

1. The XIX Additional Sessions Judge, Chennai.
2. The V Metropolitan Magistrate, Egmore, Allikulam, Chennai.
3. The Sub-Inspector of Police,
K-4, Anna Nagar Police Station,
Chennai.
4. The Public Prosecutor,
High Court, Madras.

CrI.R.C.No.15 of 2018

10.10.2022