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Crl.A.No.545 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2022

CORAM

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

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1. C.Chandru
2. M.Chakravarthy
3. M.Rajesh
4. T.Santhosh
5. M.Sakthivel
6. M.Jegan

... Appellants

Vs

State represented by:
The Inspector of Police,
Royakkottai Police Station,
Krishnagiri District.
(Crime No.483 of 2015)

...Respondent

PRAYER : This Criminal Appeal has been filed under Section 374(2) of Criminal Procedure Code, against the Judgment and conviction passed by the Learned Sessions Judge, Fast Track Mahila Court at Krishnagiri in Spl.S.C.No.50 of 2016 dated 09.08.2018 convicting the first appellant for the alleged offence under Section 506(i) of IPC to undergo six months simple imprisonment and Rs.500/- as fine in default one month S.I and also 1 to 6 appellants for the alleged offence under Section 4 of Women Harassment Act 1998 to undergo two years simple imprisonment and



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Rs.10,000/- as fine for each in default four months S.I. for each.

For Appellants : Mr.P.Veera Narayana
for Mr.M.P.Saravanan
For Respondent : Mr.A.Gopinath
Government Advocate (Crl. Side)

JUDGMENT

This appeal is directed as against the Judgment passed in Spl.S.C.No.50 of 2016 dated 09.08.2018, on the file of the learned Sessions Judge, Fast Track Mahila Court at Krishnagiri, thereby convicted the appellants for the offences punishable under Section 506(i) of IPC and Section 4 of Prohibition of Harassment of Women Act, 1998.

2. The case of the prosecution is that the victim was pursuing her college studies at Royakottai. She used to come by bus to Royakottai. While being so, on 16.09.2015, when she got down from the bus at Royakottai at about 08.00 a.m., the first accused compelled her to love him. He also accompanied with other accused. The first accused also threatened her with dire consequences, if she did not love him, he will do away the life of her parents. Hence, the complaint.



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3. On receipt of the complaint, the respondent registered an FIR in Crime No.483 of 2015 for the offences punishable under Sections 147, 506(i) of IPC and Section 4 of Prohibition of Harassment of Women Act, 1998. After completion of investigation, the respondent filed a final report and the same has been taken cognizance in Spl.S.C.No.50 of 2016 for the offences punishable under Section 506(i) of IPC and Section 11 r/w 12 of POCSO Act, 2012 as against A1 and Sections 11, 12 r/w 17 of POCSO Act, 2012 as against A2 to A6, on the file of the learned Sessions Judge, Mahila Court at Cuddalore.

4. In order to bring home the charges, the prosecution had examined P.W.1 to P.W.7 and marked Exs.P1 to P6. On the side of the accused no one was examined and no document was marked. On a perusal of oral and documentary evidences, the Trial Court found the first appellant guilty for the offences punishable under Section 506(i) of IPC and Section 4 of Prohibition of Harassment of Women Act. He was sentenced to undergo six months simple imprisonment, with a fine of Rs.500/-, in default to undergo one month simple imprisonment for the



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offence punishable under Section 506(i) of IPC. He was also sentenced to undergo two years simple imprisonment, with a fine of Rs.10,000/- in default to undergo four months simple imprisonment for the offence under Section 4 of Prohibition of Harassment of Women Act. The appellants 2 to 6 were found guilty for the offence under Section 4 of Prohibition of Harassment of Women Act and sentenced them to undergo two years simple imprisonment, each with a fine of Rs.10,000/-, each, in default to undergo four months simple imprisonment, each. Aggrieved by the same, this present appeal.

5. The learned counsel for the appellants would submit that no eye witness is there to corroborate the evidence of P.W.1. Though, the occurrence had happened in a public place, no general public was enquired by the prosecution to prove the charge. There was love affair between the first appellant and the victim, which was suppressed by the victim and when it came to the knowledge of her parents, a false complaint has been foisted as against the first accused and his friends. The friends have nothing to do with the alleged occurrence, since they



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just accompanied the first accused. Though, the prosecution filed a final report under the POCSO Act, the prosecution failed to prove that the victim was a minor at the time of occurrence. Further, the prosecution also failed to prove the alleged occurrence and as such the Trial court ought not to have convicted the appellants for the offence under Section 4 of Prohibition of Harassment of Women Act.

6. Per contra, the learned Government Advocate (Crl.Side) submitted that there was love torture by the first accused with the help of A2 to A6. Though, the prosecution filed a final report under the POCSO Act, it failed to prove the age of the victim and as such the Trial Court convicted the appellants for the offence under Section 4 of Prohibition of Harassment of Women Act. The victim was examined as P.W.1 and she categorically deposed that all the accused compelled her to love A1 and also threatened her with dire consequences. The prosecution witness is the best witness. Therefore, the Court below rightly convicted the appellants and it does not warrant any interference by this Court.

7. Heard Mr.P.Veera Narayana, learned counsel appearing for



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the appellants and Mr.A.Gopinath, learned Government Advocate (Crl. Side) appearing for the respondent.

8. The case of the prosecution is that when the victim was proceeding to her college, in the bus stop, A1 along with his friends i.e., A2 to A6 compelled her to love him. A1 also used to give love torture to her. She refused to love him and as such all the accused threatened her with dire consequences. It happened continuously from her school studies. A perusal of deposition of P.W.1, clearly revealed that there was no allegation that during her school studies, she was compelled to love him. Only in the cross examination, in order to prove the love affair between A1 and P.W.1, she was cross examined to that effect. Therefore, the Trial Court rightly found that the prosecution failed to prove the allegation that she was compelled to love A1 during her school studies, when she was minor. In support of victim's evidence, her parents were examined as P.W.2 and P.W.3. They re-iterated the evidence of P.W.1. Though, the occurrence had taken place in the public place i.e., bus stop, no public was examined by the prosecution. In other



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words, the prosecution failed to examine any independent witness. That apart, except the love torture, there was no other physical attack on the victim by the accused. In fact, A1 cross examined the victim in order to prove their love affair. It seems initially there was love affair between them and later, the victim parted ways. Therefore, though the prosecution proved its case for the offences under Section 506(i) of IPC and Section 4 of Prohibition of Harassment of Women Act, this Court is inclined to reduce the sentence imposed on the appellants.

9. In view of the above, the conviction imposed on the appellants for the offences under Section 506(i) of IPC and Section 4 of Prohibition of Harassment of Women Act are hereby confirmed. Insofar as the sentences imposed on the first appellant for the offences under Section 506(i) of IPC and Section 4 of Prohibition of Harassment of Women Act are concerned, it is reduced to a period which was already undergone by the first appellant, on condition that the first appellant shall pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as compensation directly to the victim by way of demand draft, on or before



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19.12.2022, failing which, the sentences imposed on the first appellant alone stands automatically restored. Insofar as the sentences imposed on A2 to A6 for the offence under Section 4 of Prohibition of Harassment of Women Act are concerned, it is reduced to a period which was already undergone by A2 to A6.

10. Accordingly, this Criminal Appeal is partly allowed.

16.11.2022

Speaking order/Non-speaking order

Index :Yes/No

Internet :Yes/No

mn



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To

1. The Sessions Judge, Fast Track Mahila Court at Krishnagiri.
2. The Inspector of Police,
Royakkottai Police Station,
Krishnagiri District.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.
mn

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