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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Criminal Revision Case No.644 of 2014

S.Amulraj

.. Petitioner

Versus

The State of TamilNadu,
Represented by
The Sub-Inspector of Police,
Namagiripettai Police Station,
Crime No.41 of 2010

.. Respondent

Criminal Revision Case filed under Section 397 and 401 of the Code of Criminal Procedure prayed to set aside the judgment made in C.A.No.20 of 2012 by the learned Principal Sessions Judge, Namakkal dated 13.09.2012 by confirming the judgment dated 02.02.2012 made in C.C.No.116 of 2011 on the file of the Judicial Magistrate No-I, Namakkal.

For Petitioner : Mr.K.S.Karthik Raja

For Respondent : Mr.L.Baskaran,
Government Advocate (Crl.side)

ORDER

The petitioner has come forward with this Criminal Revision Case challenging the judgment passed by the learned Principal Sessions Judge, Namakkal dated 13.09.2012, confirming the conviction and sentence passed by the learned Judicial Magistrate I, Namakkal in C.C.No.116 of 2011, dated 02.02.2012.

2. The appellant herein is the accused in Crime No.41 of 2010 on the file of Namagiripettai Police Station, Namakkal District, and he was charged under Section 4 of Tamil Nadu Prohibition of Women Harassment Act, and the same was denied by him. To prove the charges, the prosecution examined P.W.1 to P.W.4, and Ex.P1 to P7. On the side of the respondent /



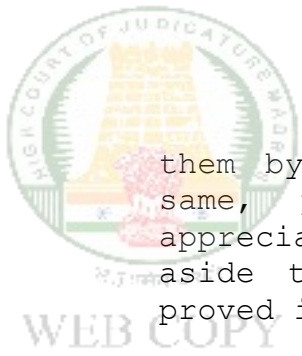
defendant, Ex.D1 was marked. On considering both oral and documentary evidence, the trial Court convicted the accused for the offence under Section 4 of Tamil Nadu Prohibition of Women Harassment Act, and sentenced him to undergo 6 months simple imprisonment with fine of Rs.5,000/-, in default, to undergo 1 month simple imprisonment. Aggrieved by the said order, the appellant has preferred an appeal in Crl.A.No.20 of 2012 before the learned Principal Sessions Judge, Namakkal and the 1st appellate Court also confirmed findings of the trial Court. Aggrieved by the same, the accused has preferred this revision petition.

3. The points that arise for consideration is this Crl.R.C. is as to, whether the trial Court failed to appreciate the fact that there was a love affair between P.W.1 and the accused and based on the document Ex.R1, erroneously convicted the accused under Section 4 of Tamil Nadu Prohibition of Women Harassment Act.

4. According to the prosecution, on 21.09.2010, at about 5.30 p.m., the complainant / P.W.1 while returning back from the college near Akkalampatti, burial ground, was suddenly stopped by the accused and pulled her shawl and he said as, "வா ஓடு சூபாகலாம்? நான் உண்ணை நல்லா வைத்துக்கொள்கிறேன்", for which she refused. Immediately, the accused got humiliated and started to harass her, which was seen by P.W.2, who objected the accused. Thereafter, her parents gave a complaint, (Ex.P1) on the same day. Accordingly, he was charged under Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, by lodging the FIR- Ex.P3.

5. Based on FIR-Ex.P3, the petitioner was convicted for the offence under Section 4 of the Tamil Nadu Prohibition of Women Harassment Act and charged against on the accused was denied by him. To prove the charges, prosecution examined P.W.1 and P.W.2 and her parents P.W.3 and P.W.4 marked witness P.W.5. Based upon the prosecution, the trial Court convicted and sentenced the accused. Aggrieved by the said order he has preferred an appeal in A.S.No.20 of 2012, The First appellate Court dismissed the appeal and confirmed the Conviction and sentence imposed by the trial Court.

6. At the time of arguments, the learned counsel for the petitioner submitted that the trial Court as well as the First Appellate Court have failed to appreciate the fact that the accused and P.W.1 loved each other for about 4 years and they have got registered themselves as husband and wife. But the parents of P.W.1 not agreed and the girl is also sailing with



them by giving the false complaint against him. To prove the same, photos-Ex.D1, was produced, but the same was not appreciated by both the Courts below. Hence, he prayed to set aside the conviction and sentence, the prosecution has not proved its case beyond reasonable doubts.

7. On considering this, in Page No.4 and 5 of the judgment, of the trial Court it reveals that, at the time of questioning under Section 313 (i) Cr.P.C., the accused denied the charges and submitted his explanation through statement. As per that, for the past four years, they loved each other and they got married before the Arulmigu AngalaParameswaran Amman Koil and when it came to know, her parents have taken her with them by assuring that by giving higher education, they would given her back, but they refused to send her. But divorce notice was issued and steps were also taken for re-union, and to prove the relationship, he produced documents Ex.R1.- photographs.

8. On a perusal of the trial Court's finding as well as the First appellate Court findings, about this aspect, more particularly with regard to Ex.R1 photographs, the same was not appreciated by the Courts below properly. At the time of questioning under Section 313 Clause (I) Cr.P.C., the accused / revision petitioner took defence that he had a love affair with P.W.1 and they got married and produced the photos Ex.R1. The trial Court ought to have proved this fact by summoning proper witness and prove the truth from the mouth of the witness, but no such steps were taken by the Courts below.

9. To convict the accused, the charge levelled against him must be proved beyond reasonable doubt, not only by the prosecution, but the Court below also should take effective steps by getting appropriate material evidence to prove the charge against the accused.

10. As discussed above, the document Ex.R1 was not properly appreciated by the Courts below, because, as per the prosecution case, the P.W.1 was suddenly intercepted by the accused and harassed her. But Ex.R1 photo shows both of them were present, and so there must be possibility of knowing each other previously before the alleged occurrence and the probable suspicion must be removed by the prosecution.

11. Suspicion about the probable situation is also to be removed by the prosecution beyond reasonable doubt, but the prosecution failed to do so. The trial Court has also not taken any effective steps to admit the evidence with regard to Ex.R1,



and so the charge levelled against the accused has not been proved by the prosecution beyond reasonable doubt for the reasons as discussed above.

12. Both the trial Court as well as the First appellate Court failed to appreciate the evidence properly and erroneously concluded that the charge levelled against the accused was proved by the prosecution beyond reasonable doubt. Therefore, the findings given by the First appellate Court as well as the trial Court are set aside. Hence, the conviction imposed on the accused by both the trial Court and the First appellate Court, are set aside.

13. Accordingly, the Criminal Revision case is allowed and the accused is acquitted of the charge, thereby, the charge leveled against the accused under Section 4 of Tamil Nadu Prohibition of Women Harassment Act, is set aside. Accordingly, the conviction and sentence imposed on the accused also set aside. The petitioner /accused is directed to be released forthwith, unless his custody is required in connection with any other case. The fine amount, if paid by the accused, is directed to be refunded. The bail bond, if any, executed by the accused, shall stand cancelled.

Sd/-

Assistant Registrar(CS-VII)

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Sub Assistant Registrar

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To

- 1.The Principal Sessions Judge,
Namakkal.
- 2.The Judicial Magistrate No.I,
Namakkal.
- 3.-do-Thro The Chief Judicial Magistrate,
Namakkal.
- 4.The Sub-Inspector of Police,
Namagiripettai Police Station,



5.The Public Prosecutor,
High Court, Madras.

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PMK (CO)
CB(25/02/2022)

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