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Crl.R.C.No.1492 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

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

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Sakthivel

... Petitioner

Vs.

State represented by,
The Sub Inspector of Police,
H-3, Tondiarpet Police Station,
Old Washermenpet,
Chennai-600 021.

... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C to set aside the Judgment passed in Criminal Appeal No.107 of 2015 on the file of V Additional Sessions Judge at Chennai on 30.10.2018 in confirming the conviction imposed Judgment in C.C.No.3384 of 2012 dated 21.04.2015 on the file of XV Metropolitan Magistrate, Chennai and acquit the petitioner.

For Petitioner : Mr.M.Kumanan

For Respondent : Mr.A.Gopinath

Government Advocate (Crl.Side)

ORDER

This Criminal Revision case has been filed as against the Judgment passed in C.A.No.107 of 2015 dated 30.10.2018 passed by the learned V Additional Sessions Judge at Chennai, thereby confirming the Judgment passed



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in C.C.No.3384 of 2012 dated 21.04.2015 on the file of the learned XV Metropolitan Magistrate, Chennai, thereby convicted the petitioner for the offence punishable under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act.

2. The case of the prosecution is that on 24.07.2012, at about 08.30 a.m., when the victim was entering her house, the accused misbehaved with her by pulling her hip and also asked her to come to his room for a night and he is ready to pay any amount. On several occasions, the accused allegedly used to sing vulgar songs whenever he is seeing the victim. Thereafter, it was informed to her husband. Hence, the complaint.

3. On receipt of the complaint, the respondent registered an FIR for the offences punishable under Section 354 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, in Crime No.750 of 2012. After completion of investigation, the respondent filed a final report and the same has been taken cognizance in C.C.No.3384 of 2012, on the file of the learned XV Metropolitan Magistrate, Chennai.



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4. In order to bring home the charges, the prosecution had examined P.Ws.1 to 8 and marked Exs.P1 to 4. On the side of the petitioner, he was examined as D.W.1 and no document was marked. On a perusal of oral and documentary evidences, the Trial Court found the accused guilty for the offence punishable under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and sentenced him to undergo one year rigorous imprisonment with a fine of Rs.10,000/-, in default to undergo three months simple imprisonment. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed confirming the Judgment passed by the Trial Court. Hence, this revision.

5. The learned counsel for the revision petitioner would submit that the victim was examined as P.W.1. There was contradictions between FIR and her deposition. She also failed to depose where the alleged occurrence had taken place. Though, P.W.1 deposed that on so many occasions the accused allegedly indulged in the same kind of activities, she did not lodge any complaint. The prosecution had examined one of the eye witnesses as P.W.3. She deposed completely different and the said contradiction is fatal to the case of the prosecution. He further submitted that admittedly, the petitioner is a landlord. There was more than 30 tenants. There was landlord and tenant dispute between



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them with regard to frequent enhancement of rent. It was also categorically admitted by P.W.1 and P.W.2. There was also dispute with regard to vacating the premises. Therefore, a false complaint has been foisted as against the petitioner. Another witness was examined as P.W.5, who is none other than the close relative of P.W.1. Therefore, no independent witness was examined by the prosecution in order to bring home the charges. Without considering these aspects, the Trial Court mechanically convicted the petitioner. Therefore, he prayed for acquittal from all the charges.

6. Per contra, the learned Government Advocate (Crl.Side) would submit that though the petitioner had taken a specific stand that there was landlord and tenant dispute, the petitioner did not even produce any single piece of evidence to substantiate the same. In fact, the accused was examined as D.W.1 and even then he failed to substantiate his contention. The petitioner used to misbehave with not only P.W.1, but also with other tenants. P.W.3 categorically deposed that the petitioner used to misbehave with other women also. Therefore, both the Courts below rightly convicted the petitioner and it does not warrant any interference by this Court.



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

8. Admittedly, the petitioner is the landlord and P.W.1 was a tenant. P.W.2 is the husband of P.W.1. P.W.3 and P.W.6 were also tenants under the petitioner. While being so, on 24.07.2012, at about 08.30 a.m., when the victim entered into her house, the petitioner had pinched her hip. He had also attempted to touch her breasts. Immediately, she informed her husband and lodged a complaint. Whereas, P.W.3, who happens to be an eye witness, had deposed a completely different version. Further, they were tenants for the past several years. If at all the petitioner indulged in these type of activities, definitely no tenant would have continued under the petitioner as a tenant. All the tenants deposed that the petitioner used to enhance the rent frequently. Therefore, there was landlord and tenant dispute between them.

9. It is also seen that the victim was seven months pregnant at the time of occurrence. This Court is not able to believe the evidence of P.W.1 that the petitioner would have indulged in the activities as alleged by P.W.1, since no prudent man would misbehave with seven months pregnant lady. That too, to by



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pinching her hip. Further, though the prosecution witnesses alleged that the petitioner involved in same kind of activities for the past several years, no one had lodged a complaint so far, except the present complaint. Unfortunately, the Trial Court did not believe the version of the accused for the reason that the petitioner failed to produce any document to show that there was landlord and tenant dispute between them. In fact, the petitioner was examined as D.W.1 and he categorically deposed that there was landlord and tenant dispute between them and the same was admitted by P.W.1 to P.W.3 and also P.W.6. Therefore, the prosecution failed to prove its case beyond any doubt.

10. In view of the above, the conviction and sentence imposed on the petitioner is liable to be set aside. Accordingly, the Judgment passed in C.A.No.107 of 2015 dated 30.10.2018 passed by the learned V Additional Sessions Judge at Chennai, thereby confirming the Judgment passed C.C.No.3384 of 2012 dated 21.04.2015 on the file of the learned XV Metropolitan Magistrate, Chennai, are hereby set aside. The fine amount, if any, paid by the petitioner shall be refunded to him. The bail bond, if any, executed by the petitioner shall stand cancelled.



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WEB COPY 11. Accordingly, this Criminal Revision case stands allowed.

30.11.2022

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order
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To

1. The V Additional Sessions Judge at Chennai.

2. The XV Metropolitan Magistrate, Chennai.

3. The Sub Inspector of Police,

H-3, Tondiarpet Police Station,
Old Washermenpet,
Chennai-600 021.

4. The Public Prosecutor,

High Court, Madras.



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G.K.ILANTHIRAIYAN, J

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