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Crl.A.No.104 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2023

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.A.No.104 of 2015

Mansoor Ali Khan @ Abdul Salem

...Appellant

Versus

1.Sneha Sharma

2.K.Veerapandi,
The Inspector of Police,
R-2, Kodambakkam Police Station,
Chennai – 24.

...Respondent

Prayer: Criminal Appeal filed under Section 341 of Criminal Procedure Code, against the order in Crl.M.P.No.10407 of 2014, dated 07.11.2014 passed by the Learned Principal Sessions Judge, Chennai.

For Appellant : No Appearance

For Respondent : Mr.R.Kishore Kumar,
Government Advocate (Crl.Side)

JUDGMENT

This is an appeal filed under Section 341 of Code of Criminal Procedure. Aggrieved by the order dated 07.11.2014 in Crl.M.P.No.10407 of 2014 by the Learned Principal Sessions Judge, Chennai, in and by which, the



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application filed by the appellant under Section 340 of Cr.P.C., to record the finding that the first respondent in the petition had adduced false evidence and to forward a complaint to the appropriate learned Magistrate, for the offence under Section 194, 211 r/w 109 of Indian Penal Code, is rejected by the learned Judge.

2.The case of the appellant is that on the complaint given by the first respondent, namely, *Sneha Sharma*, he was charged for the offences under Section 376(1), 417 of IPC., and the Trial Court had convicted him, for the offence under Section 376 and sentenced him to undergo seven years Rigorous Imprisonment and also pay a fine of Rs.3 Lakhs and in default of payment of fine to undergo one and half years Simple Imprisonment; of the offence under Section 417 of IPC., and sentenced to undergo six months Rigorous Imprisonment to pay a fine of Rs.25,000/-, in default of payment of fine amount to undergo one and half years Simple Imprisonment. Further, this Court, in the appeal preferred by him in Criminal Appeal in Crl.A.No.284 of 2001 by a Judgment dated 23.07.2007 set aside the conviction and acquitted him. He would plead that the first respondent had also filed an Original Petition in O.P.No.99 of 1955 against one *Suresh Misra*, for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, from which it is clear that the entire allegations made by her that the appellant herein had



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promised her to marry her and had intercourse are false. Therefore, the first respondent is liable to be prosecuted. It is the contention of the appellant that when this Court has acquitted him, the application filed by him ought to have been allowed by the learned Session Judge and the complaint ought to have been forwarded.

3.The learned Government Advocate (Criminal side) on the contrary pointing out the order impugned in the appeal would submit that the Trial Court had considered the scope of Section 340 of the Criminal Procedure Code in proper perspective manner and considered the findings of this Court that only by giving benefit of doubt the appellant was acquitted. This Court also considered the fact that the appellant had an affair with the first respondent, and she become pregnant and delivered a female child. DNA test was conducted during the investigation of the said case and it is proved that the appellant herein is the biological father of the child born to the first respondent, and this Court had also recorded the fact that the appellant/accused was willing to deposit a sum of Rs.7 Lakhs apart from the sum of Rs.3,25,000/- which had been already imposed as fine, in all put together a sum of Rs.10,25,000/- and treated the same as compensation payable to the first respondent and the child born to her. Hence, this is not a



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fit case where it can be said that P.W.1 has given false evidence punishable for the offences under Section 194 r/w 211 of Indian Penal Code and accordingly, the Trial Court has rightly dismissed the petition filed by the appellant herein.

4.I have considered the grounds raised in the appeal and the submissions made by the learned Government Advocate (Criminal side) and perused the material records of this case.

5.As rightly pointed out by the learned Government Advocate (Criminal side), while acquitting the appellant/petitioner, there is no finding that the entire allegations made by P.W.1 are false. On the contrary, this Court had even found that the child is born to the appellant and had even recorded the fact that the appellant willingly deposited the sum of Rs.7 Lakhs and the fine amount paid by him i.e., Rs.3,25,000/- in all totalling to a sum of Rs.10,25,000/- to be paid as compensation to the first respondent and the child born to her. Considering the said totality of the circumstances, merely because of P.W.1 has allegedly married a third person and the said factum alone will not disprove the entire allegations made by her especially when there is no finding as to the falsity of the deposition made by her in the



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judgment of this Court in Crl.A.No.284 of 2001. Accordingly, I find that the Trial Court has rightly rejected the application filed by the appellant herein and there is no merit in the appeal and thus the Criminal Appeal fails and is hereby dismissed.

19.01.2023

Index: Yes
Speaking order
Neutral Citation : Yes

klt

To

- 1.The Principal Sessions Court, Chennai.
- 2.The Inspector of Police,
R-2, Kodambakkam Police Station,
Chennai – 24.
- 3.The Public Prosecutor,
Madras High Court.



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D.BHARATHA CHAKRAVARTHY, J.

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