



Crl.RC.No.1068 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2023

Coram:

THE HONOURABLE **MR. JUSTICE P.VELMURUGAN**

Criminal Revision Case No.1068 of 2020

Ramesh

...Petitioner

Vs.

State rep. by
The Inspector of Police
Thiruvankadu Police Station
Sirkali-Taluk
Nagapattinam – District
(Crime No.77 of 2005)

... Respondent

Prayer: Criminal Revision Case filed under Section 397 read with 401 of Criminal Procedure Code, praying to allow the Criminal Revision by setting aside the conviction and sentence made in Criminal Appeal No.41 of 2013 on the file of the Sessions Judge, Fast Track Mahila Court, Nagapattinam, dated 31.10.2019 in pursuance of the Judgment made in S.C.No.68 of 2008 on the file of the Principal Assistant Sessions Court, Mayiladuthurai, dated 16.07.2013.

For Petitioner : Mr.V.Prabhakaran

For Respondent : Mr.R.Murthi
Government Advocate (Crl. Side)



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ORDER

This Criminal Revision Case has been filed seeking to setting aside the conviction and sentence made in Criminal Appeal No.41 of 2013 on the file of the Sessions Judge, Fast Track Mahila Court, Nagapattinam, dated 31.10.2019 in pursuance of the Judgment made in S.C.No.68 of 2008 on the file of the Principal Assistant Sessions Court, Mayiladuthurai, dated 16.07.2013.

2. The petitioner is the sole accused. The respondent police registered the case against the petitioner in Crime No.77 of 2005 for the offence under Section 450 and 376 IPC and after investigation, laid charge sheet before the Judicial Magistrate, Sirkazhi. The learned Magistrate taken the charge sheet on file in PRC No.19 of 2006 and after completing the formalities under Section 207 and 209 Cr.P.C., committed the case to the Principal District and Sessions Judge, Nagapattinam since the offences are exclusively triable by the Court of Sessions. The Principal District and Sessions Judge, Nagapatinam, taken the case on file in SC.No.68 of 2008 and made over to the Principal Assistant Sessions



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Judge, Myliladuthurai for disposal. The Principal Assistant Sessions Judge after completing the formalities, framed the charges against the petitioner for the offences under Sections 450 and 376 IPC and after trial, found the guilt of the accused for the charged offences and convicted and sentenced to undergo 7 years Rigorous Imprisonment and to pay fine of Rs.500/- in default to undergo Rigorous Imprisonment for a further period of 6 months for the offence under Section 450 IPC; to undergo 7 years Rigorous Imprisonment and to pay fine of Rs.1,000/- in default to undergo Rigorous Imprisonment for a further period of 6 months for the offence under Section 376 IPC.

3. Aggrieved over the said Judgment of conviction and sentence, the accused filed appeal before the Court of Sessions (Fast Track Mahila Court, Nagapattinam) in Clr.A.No.41 of 2013. The learned Sessions Judge, after hearing the arguments and considering the materials, dismissed the appeal and confirmed the conviction and sentence passed by the Assistant Sessions Judge. Against the Judgment of dismissal of appeal, the accused has filed the present revision before this Court.



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4. On a careful perusal of the records, this Court finds that the cause of action arose in the year 2005 and the offences charged against the petitioner viz., Sections 450 and 376 IPC are serious in nature. At the time of occurrence, the victim was aged only 18 years and due to the offence committed by the petitioner, the victim subsequently died.

5. Though the learned counsel for the petitioner seeks time, this Court is not inclined to grant adjournment considering the heinous nature of offence wherein the victim who was only aged 18 years was raped by the petitioner in an inhuman manner and already the mother of the victim was made to run from pillar to post to get justice for her lost daughter. Further considering the period of pendency of this case before this Court from the year 2020, this Court is not inclined to grant any further adjournments.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) and also perused the materials available on record.

7. Though in this case all the independent witnesses have turned



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hostiles, P.W.8 who is none other than the mother of the victim, is the eyewitness to the occurrence and she is the one who admitted the victim in the hospital after the occurrence and based on the intimation given by the hospital authorities, the respondent police obtained the complaint statement from the victim and based on which, registered the FIR, investigated the matter and laid charge sheet. Therefore, the present case.

8. P.W.8/the mother of the victim has clearly stated that on the date of occurrence, she went to graze her goats and her daughter/the victim was alone in the house. After about one hour, when P.W.8 returned to home, she saw the petitioner coming out of her house and when she caught hold of him, the petitioner stated that he has done nothing and he would marry her daughter and ran away. Since the petitioner behaved wrongly with her daughter, the health condition of her daughter became serious and hence, she was immediately taken to the Government Hospital, Sirkazhi, and thereafter, to Chidambaram Hospital for further treatment. The hospital authorities sent intimation to the police and the police recored the statement of the victim and subsequently registered the



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case.

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9. P.W.7 is the doctor who admitted the victim in the hospital. He has deposed that on 02.04.2005 at about 05.15 p.m., the victim was brought to the Hospital by her mother. At that time, the victim was conscious and told that she was raped by a known person on the same day at 01.00 p.m. and that she was having heavy bleeding. Copy of the Accident Register was marked as Ex.P.4.

10. P.W.15 is the doctor who conducted medical examination on the victim and she has stated that the victim was conscious and she was bleeding heavily. Further when the trial Court had put a question to P.W.15 as to what could be the reason for continuous bleeding, she stated that due to forcible rape and due to tear, such bleeding is possible.

11. A perusal of the records shows that P.W.1 to P.W.5, P.W.9 and P.W.10 have turned hostiles and not supported the case of the prosecution. Since after the occurrence, the victim died, she was not examined as occurrence witness. Only the mother of the victim who saw the petitioner running out of her house at the time of occurrence, was



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examined as P.W.8 and she has clearly stated that her daughter informed her that the petitioner forcefully committed rape on her. The evidence of P.W.8/mother of the victim is cogent and consistent and there is no reason to discard the evidence of the mother of the victim/P.W.8. Further, the doctors' evidence and medical evidence are amply proved that the victim was subjected to rape. The trial Court rightly appreciated the evidence and found the guilt of the petitioner herein for the offences under Sections 450 and 376 IPC and convicted and sentenced as stated above. Subsequently, when the petitioner filed appeal, the appellate Court being the final Court of fact finding, re-appreciated the entire evidence and confirmed the Judgment of conviction and sentence passed by the trial Court and dismissed the appeal.

12. As a revisional Court, this Court while perusing the records, finds no perversity in the appreciation of evidence. It is settled proposition of law that while exercising the power of revisional jurisdiction, the revisional Court cannot sit in the arm chair of the appellate Court and re-appreciate or re-visit the entire evidence and substitute its own views with



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the findings of the final Court of fact finding namely the appellate Court.

The appellate Court has already re-appreciated the entire evidence and given its findings. The scope of the revision is only to go through the records and if there is any perversity in the appreciation and re-appreciation of evidence or illegality in the findings of the Courts below, the revision Court can interfere otherwise, the revisional Court need not interfere with the Judgments of the Courts below.

13. From the evidence of P.W.8/mother of the victim and doctors' evidence and medical records, this Court finds that there is no perversity in the appreciation and re-appreciation of evidence by the Courts below. Therefore, there is no merit in the revision and the revision is liable to be dismissed.

14. Accordingly, this Criminal Revision Case is dismissed.

11.01.2023

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To

1. The Sessions Judge,
Fast Track Mahila Court, Nagapattinam

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2. The Principal Assistant Sessions Court,
Mayiladuthurai

3. The Inspector of Police
Thiruvengkadu Police Station
Sirkali-Taluk
Nagapattinam – District

4. The Public Prosecutor
High Court of Madras, Chennai



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