



Crl.R.C.No.1270 of 2017

In the High Court of Judicature at Madras

Dated : 28.3.2023

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Criminal Revision Case No.1270 of 2017

S.Ranjith

...Petitioner

Vs

State rep.by the Sub-Inspector
of Police, N4 Fishing Harbour
Police Station, New Washermenpet,
Chennai-81.

...Respondent

REVISION under Sections 397 and 401 of the Criminal Procedure Code against the judgment and order dated 30.8.2017 made in Crl.A. No.50 of 2017 on the file of XV Additional Sessions Court, Chennai modifying the judgment dated 31.1.2017 made in C.C.No.1360 of 2015 on the file of XVI Metropolitan Magistrate, George Town, Chennai.

For Petitioner	:	Mr.B.Raja
For Respondent	:	Mr.V.J.Priyadarsana, Government Advocate (Crl.Side)

Order

This criminal revision case has been filed against the judgment

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and order passed by the learned 15th Additional Sessions Judge, Chennai in Crl.A.No.50 of 2017, dated 30.8.2017, partly allowing the appeal and confirming the judgment and order passed by the learned 16th Metropolitan Magistrate, George Town, Chennai in C.C.No.1360 of 2015, dated 31.1.2017, insofar as convicting the petitioner for the offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Women (Amendment) Act, 2002 (hereinafter called the Act) and sentencing him to undergo two years rigorous imprisonment and to pay a fine amount of Rs.10,000/- and in default, to undergo one month simple imprisonment.

2. The case of the prosecution, in brief, is as follows :

(i) On 28.7.2015 at about 5.45 AM, the victim - P.W.1 came out of her house and was walking towards a tea shop. At that time, the petitioner was said to have restrained her, uttered obscene words, pulled her saree and attempted to kiss her. When the victim raised an alarm, the petitioner was said to have escaped from the scene of occurrence.

(ii) The victim - P.W.1 lodged a complaint - Ex.P.1 on 28.7.2015 before the Sub-Inspector of Police, N4 Fishing Harbour Police Station,



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New Washermenpet, Chennai-81 at about 8.30 AM and a first information report was registered in Cr.No.1102 of 2015 for the offences under Sections 341, 354 and 294(b) of the Indian Penal Code (for brevity, the Code) and Section 4 of the Act. The first information report was marked as Ex.P.5.

(iii) P.W.8 took up the investigation and prepared the observation mahazar marked as Ex.P.2 and the rough sketch marked as Ex.P.6. Thereafter, P.W.8 recorded the statements of witnesses under Section 161(3) of the Criminal Procedure Code (for short, the Cr.P.C.). In the course of investigation, the petitioner was arrested on the same day and he was produced before the Court concerned and remanded to judicial custody. On completion of the investigation, the final report was filed before the Trial Court.

(iv) The Trial Court, after furnishing the copies to the petitioner under Section 207 of the Cr.P.C., framed charges against the petitioner for the offences under Sections 341 and 294(b) of the Code and Section 4 of the Act. When the charges were put to the petitioner, he denied the same.

(v) The prosecution examined P.W.1 to P.W.8 and marked Ex.P.1 to Ex.P.6. The incriminating evidence collected during the course of



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trial was put to the petitioner when he was examined under Section 313(1)(b) of the Cr.P.C., and he denied the same as false. The Trial Court, on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to the conclusion that the prosecution had proved the case beyond reasonable doubts and convicted and sentenced the petitioner, by judgment dated 31.1.2017 in C.C.No.1360 of 2015, in the following manner :

S.No	Offence for which convicted	Sentence
1	Section 341 of the Code	Two weeks simple imprisonment
2	Section 294(b) of the Code	One month simple imprisonment
3	Section 4 of the Act	Two years rigorous imprisonment and to pay a fine of Rs.10,000/- and in default, to undergo one month simple imprisonment
The above sentences were directed to run concurrently and the period already undergone by the petitioner was directed to be set off under Section 428 of the Cr.P.C.		

(vi) Aggrieved by the judgment dated 31.1.2017 rendered by the Trial Court, the petitioner filed an appeal and it was heard by the learned 15th Additional Sessions Judge, Chennai in Crl.A.No.50 of 2017. The Appellate Court re-appreciated the oral and documentary evidence, considered the findings of the Trial Court and came to the



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conclusion that the prosecution had not made out a case for the offences under Sections 294(b) and 341 of the Code and accordingly acquitted the petitioner from these charges. However, the Appellate Court confirmed the judgment of the Trial Court insofar as the conviction and sentence imposed on the petitioner for the offence under Section 4 of the Act is concerned. As against the judgment of the Appellate Court, the above criminal revision case has been filed before this Court.

3. I have heard the learned counsel for the petitioner and the Government Advocate (Criminal Side) appearing on behalf of the State.

4. The learned counsel for the petitioner submitted that the evidence of P.W.1 and P.W.2 alone were considered by both the Courts below and the petitioner was convicted and sentenced for the offence under Section 4 of the Act. He would further submit that there were discrepancies between the evidence of P.W.1 and P.W.2 and hence, their evidence became unreliable. He also submitted that the Appellate Court, having disbelieved the version of the prosecution in the manner,



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in which, the incident had taken place and thereby acquitted the petitioner from the charges under Sections 341 and 294(b) of the Code, ought to have applied the same yardstick even for the offence under Section 4 of the Act.

5. The learned counsel for the petitioner further submitted that the version that was given in the complaint was completely different from what was spoken to by P.W.1 before the Trial Court and that the complaint itself was given with a malafide intention due to the previous enmity between the parties. Hence, it was contended that the findings of both the Courts below suffer from perversity, which require interference of this Court.

6. Per contra, the learned Government Advocate (Criminal Side) appearing on behalf of the State submitted that the Appellate Court had carefully appreciated the evidence available on record and had come to the conclusion that the prosecution had made out a case for the offence under Section 4 of the Act.



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7. In order to substantiate his submission, the learned Government Advocate (Criminal Side) read the evidence of P.W.1 and P.W.2. She would submit that P.W.1 was the victim, that there was no reason for the victim to give a false complaint against the petitioner, that there was absolutely no ground to disbelieve the evidence of P.W.1., and that the minor discrepancies that were pointed out by the learned counsel for the petitioner will not, in any way, take away the credibility of the evidence of P.W.1. He concluded his arguments by submitting that the judgment of the Appellate Court does not suffer from any perversity nor it requires the interference of this Court in exercise of the revisional jurisdiction by this Court.

8. This Court has carefully considered the submissions made on either side and the materials available on record.

9. P.W.1 is the victim in this case. While lodging the complaint, she stated that she was a widow having two girl children, that the petitioner was residing in the opposite block, that on 28.7.2015 at about 5.45 AM, when she came out of her house and was walking towards a tea shop, the petitioner was stated to have restrained the



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victim, uttered obscene words, pulled her saree and attempted to kiss her.

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10. P.W.1, in her evidence, slightly exaggerated more than what was stated in the complaint. One of the bane, which plagues the Criminal Justice System is the exaggerated version that is uttered before Courts by the witnesses. This has happened even during the British days and that is the reason as to why the principle of falsus in uno, falsus in omnibus is not applied in India. The Court must only see if, after removing the chaff from the grain, the evidence of the witness is reliable and thereby can be acted upon. In view of the same, this Court has to see if the exaggerations made by P.W.1 make her evidence completely unreliable.

11. The version given by P.W.1 before the Trial Court is almost in line with the version as found in the complaint marked as Ex.P.1. In cases of this nature, the Apex Court has repeatedly held that the evidence of a victim, who has been subjected to sexual harassment, must carry more weight and that the Courts need not search for corroboration unless the evidence of the victim is completely



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unreliable. The test for appreciating the evidence of a victim, who has been subjected to harassment/sexual harassment, is different from the test that is applied to normal witnesses.

12. On carefully going through the cross examination of P.W.1, it is seen that the evidence of P.W.1 has not been discredited and the petitioner has not established his defence that the complaint itself was given with a malafide intention. If really there was a previous enmity between the petitioner and P.W.1, necessary questions ought to have been put during her cross examination and a foundation must have been laid. The petitioner did not even come up with his version about the incident, when the incriminating evidence was put to him while questioning under Section 313 of the Cr.P.C.

13. P.W.2 is the brother-in-law of P.W.1. He has also been examined as an eyewitness in this case. There is some discrepancy in the version given by P.W.2. This has been carefully considered by the Appellate Court and it was found that the evidence of P.W.2 corroborated the evidence of P.W.1.



14. Even by applying the test under Section 3 of the Indian Evidence Act, 1872 i.e. the test of a prudent man, there is absolutely no reason as to why P.W.1 would give a complaint of this nature against the petitioner unless such an incident had taken place. If the evidence of P.W.1 is to be disbelieved, the petitioner ought to have established the previous enmity with P.W.1 and the same has not been done in this case.

15. Immediately after the incident, the complaint was given on the same day at 8.30 AM and it had also reached the Court concerned even on the same day at 4 PM. Hence, there was no occasion for P.W.1 to deliberate and intentionally fix the petitioner as an accused in this case. In any event, it will be quite unnatural that a lady, aged about 32 years and having two girl children, would lodge a complaint of this nature, which directly touches upon her modesty.

16. This Court, while exercising its revisional jurisdiction, cannot re-appreciate the evidence nor deal with the case like a second appeal. This Court must only see if the findings of the Courts below suffer from perversity. The Appellate Court rendered its findings on re-appreciation



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of the entire evidence and those findings do not suffer from any perversity nor require interference of this Court.

17. Considering the facts and circumstances of the case and also considering the age of the petitioner and his present family status, this Court is inclined to modify the sentence imposed by the Courts below while sustaining the conviction of the petitioner under Section 4 of the Act.

18. In the result, the criminal revision case is partly allowed, the conviction of the petitioner by the Appellate Court under Section 4 of the Act is sustained and the sentence imposed on the petitioner shall stand modified. The period of imprisonment shall be confined to the period already undergone by the petitioner. The fine amount imposed by the Trial Court is sustained. The fine amount has already been paid by the petitioner and the same is evident from the order dated 03.10.2017 passed by this Court in Crl.M.P.No.12319 of 2017 when the petitioner was enlarged on bail.

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N.ANAND VENKATESH,J

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To

- 1.The 15th Additional Sessions Court, Chennai.
- 2.The 16th Metropolitan Magistrate, George Town, Chennai.
- 3.The Sub-Inspector of Police, N4 Fishing Harbour Police Station, New Washermenpet, Chennai-81.
- 4.The Public Prosecutor, High Court, Madras.

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