



WEB COPY



Crl.R.C.No.1407 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.R.C.No.1407 of 2017

Anand

... Petitioner

VS.

State Rep. by
Inspector of Police,
All Womens Police Station, Chidambaram,
Chidambaram,
Cuddalore District.
(Crime No.5 of 2012)

... Respondent

Prayer: Criminal Revision filed under Sections 397 r/w 401 of the Code of Criminal Procedure to call for records pertaining to the judgment dated 03.10.2017 passed in C.A.No.17of 2017 on the file of the learned II Additional District and Sessions Judge, Chidambaram confirming the judgment dated 15.02.2017 passed in C.C.No.16 of 2013 on the file District Munsif-cum-Judicial Magistrate, Potonovo and set aside the same by allowing the above revision.

For Petitioner

: Mr.S.T.Raja for
M/s.G.S.Dhanalakshmi

For Respondent

: Mr.L.Baskaran
Government Advocate
(Criminal Side)



ORDER

WEB COPY

This Criminal Revision case has been filed against the judgment and order passed by the II Additional District and Sessions Judge, Chidambaram in Crl.A.No.17 of 2017, dated 03.10.2017, confirming the judgment and order passed by the District Munsif-cum-Judicial Magistrate, Portonovo in C.C.No.16 of 2013, dated 15.02.217, convicting the petitioner for offence under Section 417 of IPC and sentencing him to undergo one year rigorous imprisonment and to pay a fine of Rs.1000/- (Rupees One Thousand only) and in default to undergo two months simple imprisonment and also to pay compensation of a sum of Rs.50,000/- (Rupees Fifty Thousand only) to the victim girl.

2.The case of the prosecution is that the petitioner and the victim girl (PW1) had an affair and the petitioner seems to have had physical intercourse with PW1 on a regular basis on the promise that he will marry her. The further case of the prosecution is that the victim girl also conceived twice and it was aborted. Ultimately, when the victim girl was insisting the petitioner to marry her, the petitioner is said to have evaded the victim girl and had abused her in filthy language. As a result, the victim girl is said to have attempted to commit suicide by consuming pesticide.



WEB COPY

3.The complaint (Ex.P1) was given by the victim girl on 21.05.2012 and based on the same, an FIR (Ex.P6) came to be registered. The investigation was taken up by PW10 and he prepared the Observation Mahazer and the Rough Sketch, which were marked as Ex.P2 and Ex.P7 respectively. PW10 also recorded the statements of the witnesses under Section 161(3) of Cr.P.C.

4.The victim girl was referred to PW8 Doctor and the report submitted by the Doctor was marked as Ex.P2. The petitioner was arrested and remanded to judicial custody and he was also referred for medical examination to PW6. The report given by PW6 was marked as Ex.P3.

5.Ultimately, on completion of the investigation, the final report was filed before the Trial Court. The trial Court framed charges against the petitioner for offence under Section 417 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. The prosecution examined PW1 to PW10 and marked Exs.P1 to P7. The incriminating evidence that was gathered in the course of trial was put to the petitioner while he was questioned under 313 (1)(b) of Cr.P.C., and he denied the same as false.



WEB COPY

6.The Trial Court on appreciating the oral and documentary evidence and considering the facts and circumstances of the case, found that prosecution has proved the case beyond reasonable doubts as against the petitioner for offence under Section 417 of IPC and accordingly, sentenced the petitioner. The petitioner was acquitted from the charge under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act.

7.Aggrieved by the judgment and order passed by the Trial Court, the petitioner filed an appeal and the same was taken on file in Crl.A.No.17 of 2017 by the II Additional District and Sessions Judge, Chidambaram. The Appellate Court reappreciated the evidence and also took into consideration the findings of the trial Court and found that there was no ground to interfere with the judgment of the Trial Court. Accordingly, the Criminal Appeal was dismissed by judgment and order dated 03.10.2017. Aggrieved by the same, the present criminal revision case has been filed before this Court.

8.When the case was taken up for final hearing, the learned counsel for the petitioner submitted that during the pendency of the appeal, there was a compromise between the petitioner and the victim girl (PW1) and accordingly, the



petitioner paid a sum of Rs.50,000/- (Rupees Fifty Thousand only) by way of Demand Draft. On receiving the same, the victim girl also gave a statement before the respondent police to the effect that the matter has been compromised between the parties and that the criminal case can be closed.

9. When the matter was taken up for hearing, Tmt.S.Vanaja, Inspector of Police and Ms.M.Thirupurasundari, Grade-I Police Constable (1888), All Women Police Station, Chidambaram were present before this Court.

10. The learned Government Advocate on instructions from the concerned Police Officers submitted that the victim girl had given a statement before the police and the statement that was given was also produced before this Court. The Officer, who was present stated that the matter has been compromised between the parties and that the victim girl does not want to prosecute the case.

11. This Court has carefully considered the subsequent development that has been taken place in this case and also the materials available on record.

12. This Court carefully went through the evidence of PW1. On considering the evidence of PW1, both the Courts below have concurrently held that the



petitioner had mislead the victim girl by giving a false promise that he will marry her and was repeatedly having sexual intercourse with PW1. In fact, the victim conceived twice and it was also aborted. The Court below also took into consideration the fact that the victim girl, on realising that the petitioner had cheated her, went to the extent of consuming pesticide to take away her life.

13.The evidence of PW1 is very natural and both the Courts below have properly appreciated the evidence of the victim girl. In a case of this nature, it is not necessary for the Court to go in search of any corroboration and if the evidence of the victim girl is found to be reliable, that by itself can be a ground to convict the accused person. Section 134 of the Indian Evidence Act, 1872 only insist upon the quality of the evidence and not the quantity of the evidence. Hence, even a solitary witness whose evidence is found to be reliable and more particularly in the case of sexual abuse, the Court can act upon that evidence and proceed to deal with the accused persons. Hence, both the Courts below were perfectly right in appreciating the evidence of PW1 and coming to a conclusion that the petitioner had cheated the victim girl with a false promise to marry and had regular physical intercourse.



14.The learned counsel for the petitioner submitted that the victim girl has compromised the dispute with the petitioner and has received the compensation of a sum of Rs.50,000/- (Rupees Fifty Thousand only) from the petitioner. Therefore, the learned counsel sought for compounding of the offence. On carefully reading Section 320 of Cr.P.C., it is seen that the offence of cheating under Section 417 IPC can be compounded, if the person/victim, who was cheated is willing to compound the same. In the present case, the compounding has taken place at the stage of criminal revision. When it comes to sexual offence as against women, Courts must be very slow to compound the offence, since the victim by sheer frustration can come forward to compound the offence. However, the Court must be very careful and ensure that the substantial justice is done to the victim girl. If compounding of offence in cases of this nature is done leniently, it will send a wrong message to the society.

15.In the light of the above discussion, this Court confirms the conviction imposed against the petitioner for offence under Section 417 of I.P.C. However, considering the subsequent development, this Court is inclined to modify the sentence. For an offence under Section 417 of IPC, the punishment that is provided is imprisonment for a term which may extend to one year or with fine or with both. Therefore, imprisonment need not be mandatorily imposed and it can



be balanced by directing payment of more compensation by the petitioner to the victim girl. In view of the same, the sentence imposed by the Trial Court and confirmed by the Appellate Court is modified as follows:

The petitioner is sentenced to pay fine of Rs.1000/- (Rupees One Thousand only) and in default to undergo two months simple imprisonment. The petitioner is further directed to pay compensation of a sum of Rs.1,00,000/- (Rupees One Lakhs only) to the victim girl (PW1) and in default to undergo three months simple imprisonment. The Apex Court has held in ***Vijayan vs. Sadanandan K. and another*** reported in ***2009 3 CTC 786*** that a default sentence can be imposed for non-payment of compensation. Taking note of the same, the default sentence is imposed by this Court if the petitioner fails to pay the compensation amount to the victim girl (PW1).

16.The petitioner has already deposited fine amount of Rs.1000/- (Rupees One Thousand only) and the same is evident from the suspension of sentence order passed by this Court on 10.11.2017. The petitioner has also paid a sum of Rs.50,000/- (Rupees Fifty Thousand only) to the victim girl (PW1) by way of Demand Draft, dated 18.02.2023. A copy of the Demand Draft was also produced before this Court. What remains to be paid is only the balance compensation



Crl.R.C.No.1407 of 2017

amount of Rs.50,000/- (Rupees Fifty Thousand only) by the petitioner to the victim girl (PW1). This amount shall be paid by the petitioner to the victim girl (PW1) on or before 13.04.2023. The respondent police shall ensure that this amount is paid by the petitioner to the victim girl within the time stipulated by this Court. If the petitioner fails to pay the balance compensation amount of Rs.50,000/- (Rupees Fifty Thousand only), within the time stipulated by this Court, the respondent police shall take immediate steps to move the Trial Court in order to make the petitioner undergo the default sentence imposed by this Court.

17.In the result, this Criminal Revision case is partly allowed in the above terms and to that extent, the judgment and order passed by the Trial Court as confirmed by the Appellate Court is modified with regard to the sentence alone.

02.03.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ssr



Crl.R.C.No.1407 of 2017

N. ANAND VENKATESH, J.

SSR

To

- 1.The II Additional District and Sessions Judge,
Chidambaram.
- 2.The District Munsif-cum-Judicial Magistrate,
Potonovo.
- 3.The Inspector of Police,
All Womens Police Station, Chidambaram,
Chidambaram,
Cuddalore District.

Crl.R.C.No.1407 of 2017

02.03.2023