



Crl.A.(MD)No.102 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2023

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.A.(MD)No.102 of 2016

Subramanian

... Appellant

Vs.

State:The Inspector of Police,
S.V.Mangalam Police Station,
Sivagangai District.
(Crime No.38 of 2004)

... Respondent

PRAYER : Criminal Appeal filed under Section 374 of Cr.P.C., to set aside the order passed by the District Fast Track Mahila Court, Sivagangai in S.C.No.87 of 2008 dated 14.03.2016.

For Appellant : Mr.N.Mohideen Basha

For Respondent : Mr.M.Vaikkam Karunanithi,
Government Advocate (Crl. Side)



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CrI.A.(MD)No.102 of 2016

JUDGMENT

This criminal appeal has been filed to set aside the order passed by the District Fast Track Mahila Court, Sivagangai in S.C.No.87 of 2008 dated 14.03.2016.

2.The case of the prosecution is that the defacto complainant was doing cable TV business. One of his friends used to send persons to abroad and therefore, A1 to A3 and the appellant herein approached the defacto complainant and his friends, in order to go abroad for their employment. The defacto complainant's friend gave visa to the accused persons, after getting Rs.1,00,000/- each. Accordingly, they went to abroad. Since there was no work in abroad, they returned to India, within six months. Thereafter, the accused persons approached the defacto complainant and requested him to repay the amount. However, he refused to do the same. While being so, on 08.07.2004, at about 11.00am., the accused persons went to the house of the defacto complainant and kidnapped his wife. Thereafter, she was detained illegally in the house of A1.



CrI.A.(MD)No.102 of 2016

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3. On the complaint, the respondent police registered FIR in Cr.No. 38 of 2004 for the offences punishable under Sections 147, 148, 450, 344, 364, 506(i) IPC. After completion of investigation, the respondent police filed final report and the same has been taken cognizance in S.C.No.154 of 2008. However, some of the accused persons were not appeared and as such, the case had been split up and conducted trial as against nine accused persons, except the appellant herein in S.C.No.154 of 2008. Insofar as the appellant is concerned, the case had been split up and conducted trial in S.C.No.87 of 2008.

4. On the side of the prosecution, they had examined P.W.1 to P.W. 10 and marked Ex.P.1 to Ex.P.7. On the side of the accused, no one was examined and no document was marked. On perusal of oral and documentary evidence, the trial Court found the accused guilty for the offence under Sections 147, 365 IPC. He was sentenced to undergo one month rigorous imprisonment for the offence under Section 147 IPC and also sentenced to undergo one year simple imprisonment and to pay a fine of Rs.2,000/- in default, to undergo three months rigorous



Crl.A.(MD)No.102 of 2016

imprisonment for the offence punishable under Section 365 IPC.

Aggrieved by the same, this appeal has been preferred.

5.The learned counsel appearing for the appellant would submit that the co-accused persons, namely, A1, A2, A3 , A4, A5 and A6 were initially convicted by the trial Court and the appellate Court modified the conviction under Sections 147, 365 IPC and they were imposed only fine.

6.Considering the facts and circumstances of the case, this Court is inclined to modified the sentence alone. Accordingly, the conviction under Sections 147, 365 IPC is confirmed and the sentence is modified to the effect that the petitioner shall pay a fine of Rs.4,000/- in default to undergo three months simple imprisonment.

7.In the result, this criminal appeal is partly-allowed.

21.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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CrI.A.(MD)No.102 of 2016

To

- 1.The District Fast Track Mahila Court,
Sivagangai.
- 2.The Inspector of Police,
S.V.Mangalam Police Station,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CrI.A.(MD)No.102 of 2016

G.K.ILANTHIRAIYAN,J.

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CrI.A.(MD)No.102 of 2016

21.06.2023