



Crl.R.C.(MD)No.867 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 03.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.(MD)No.867 of 2016

Nickson Davidraj ... Petitioner/Appellant/Sole Accused

vs.

Jothimani ... Respondent/Respondent/Complainant

PRAYER : This Criminal Revision has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records of the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Karur in Crl.A.No. 67 of 2016 by Judgment dated 30.11.2016, confirming the conviction and sentence of imprisonment imposed by the learned Judicial Magistrate No.I, Karur in C.C.No.186 of 2006 by the Judgment dated 07.09.2016 and set aside the Judgments of the Courts below and acquit the petitioner.

For Petitioner : Mr.S.Deenadhayalan

For Respondent : Mr.K.Suresh

ORDER

This Criminal Revision is filed against the Judgment passed in Crl.A.No.67 of 2016, by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Karur, dated 30.11.2016



confirming the conviction and sentence of imprisonment imposed by the learned Judicial Magistrate No.I, Karur in C.C.No.186 of 2006, dated 07.09.2016

2.The case of the respondent is that the petitioner also belongs to the same village of the respondent and he was running mike set and cycle shop. While that being so, whenever the respondent proceeded to the grocery shop, she has to cross the shop of the Petitioner . While being so, the petitioner called the respondent, due to which, the respondent acquainted with the petitioner and on one occasion, he expressed his affair with the respondent and he also promised to marry her. On the pretext of marriage, he had sexual relationship with the respondent, due to which, she got pregnant. When she was under five months of pregnancy, she requested the petitioner to marry her, however, the petitioner refused to marry her. Hence, the complaint.

3.On the side of the respondent, four witnesses were examined as P.W.1 to P.W.4 and exhibited two documents as Ex.P.1 and Ex.P.2. On the side of the petitioner , two witnesses were examined as D.W.1 and D.W.2 and no documents were exhibited.



WEB COPY

4.On perusal of the oral and documentary evidence, the trial Court found the petitioner is guilty for the offence under Section 417 IPC and sentenced him to undergo 6 months Simple Imprisonment. Aggrieved by the same, the petitioner has preferred an appeal before the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Karur in Crl.A.No.67 of 2016 and the same was also dismissed and confirmed the conviction and sentence imposed by the trial Court, on 30.11.2016. Hence, the present revision.

5.The learned counsel for the petitioner would submit that the alleged occurrence happened in the year 1996. After a period of so long years, the respondent lodged the present complaint and as such, it was barred by limitation. Initially, the respondent lodged a complaint, the same has been registered in Crime No.152 of 1996 and the same has also been referred as 'Mistake of Fact'. Thereafter, the respondent filed a private complaint under Section 200 of Cr.P.C. in the year 2006. Therefore, it was also barred by limitation. That apart, the respondent failed to examine any independent witnesses in order to prove the fact that there was relationship between the petitioner and the respondent herein. He would further submit that she got married with another women and gave birth to three children. He is an auto driver. He already



undergone nearly ten days imprisonment and therefore, he pray for reducing the sentence for the period for which he has already undergone imprisonment.

6.Per contra, the learned counsel for the respondent would submit that the petitioner on the pretext of marriage, had physical relationship with the respondent, due to which, she got pregnant. She also gave birth to a male child through the petitioner. Unfortunately, the Police after registration of FIR, closed the same as 'Mistake of Fact'. Therefore, the respondent was constrained to file a private complaint and the same has been taken cognizance and Courts below confirmed conviction and sentence of imprisonment imposed against the petitioner. Therefore, it does not warrant any interference by this Court.

7.Heard the learned counsel on either side and perused the materials available on record.

8.In the year 1996, the petitioner had physical relationship with the respondent on the pretext of marriage. He assured that he will marry the respondent, due to which, she also consented for sexual intercourse, due to which, she got pregnant and also gave birth to a male child. When she



was at the stage of six months pregnancy, she requested him to marry her.

However, the petitioner refused to marry her. Therefore, she was constrained to lodge the complaint on the file of the Inspector of Police, Thogamalai Police Station, Kulithalai Taluk, Karur District. The same was closed as 'Mistake of Fact'. Therefore, the respondent had rightly filed a private complaint under Section 200 of Cr.P.C. After taking sworn statement of the respondent and supporting witnesses, the trial Court had taken cognizance of the crime in C.C.No.186 of 2006 for the offence under Section 417 IPC. In support of the contention of the respondent, she had examined P.W.1 to P.W.4.

9.A perusal of deposition of P.W.1 revealed that on the false pretext of false marriage, the petitioner had physical relationship with the respondent. In fact, it was also corroborated by other witnesses. The petitioner denied the very relationship itself. Therefore, the petitioner was subjected for DNA test. It was proved that a male child was born only through the petitioner herein. Therefore, the respondent categorically proved the case and the Courts below have rightly convicted the petitioner and sentenced him.



10.In view of the above facts and circumstances of the case, this Court finds no infirmity or illegality in the order passed by the Courts below and the revision is liable to be dismissed.

11.Accordingly, the Criminal Revision Case is dismissed.

03.04.2023

sjj

NCC : Yes/No

Index: Yes/No

Internet: Yes/No

To

1.The Sessions Judge, Mahalir Neethimandram,
(Fast Track Mahila Court), Karur.

2.The Judicial Magistrate No.I, Karur.

3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.R.C.(MD)No.867 of 2016

G.K.ILANTHIRAIYAN , J.

sj1

Crl.R.C.(MD)No.867 of 2016

03.04.2023