



Crl.R.C.(MD)No.345 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 09.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

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George ... Revision Petitioner/Appellant/1st Accused
Vs.

The State rep. By
The Sub Inspector of Police,
All Women Police Station,
Devakottai,
Sivagangai District
(Crime No. 4 of 2009)

... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C., to call for the records on the file of the Fast Track Mahila Court, Sivagangai in C.A.No. 8 OF 2014 dated 17.10.2016 modifying the order passed by the Judicial Magistrate, Devakottai in C.C.No.218of 2009 dated 21.01.2014 and set aside the order of the courts below.

For Petitioner	: Mr.S.Pugalendhi
For Respondent	: Mr.T.Senthil Kumar Additional Public Prosecutor

ORDER

This Criminal Revision Petition has been filed against the order passed in C.A.No. 8 of 2014 dated 17.10.2016 on the file of the Fast Track



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Mahila Court, Sivagangai modifying the order passed by the Judicial Magistrate, Devakottai in C.C.No.218 of 2009 dated 21.01.2014.

2. The case of the prosecution is that in the year 2008, the victim along with her friends namely, Deepa, Malar and Rani were working in the Baniyan Company at Tiruppur. They were staying in a rental room. While so, the petitioner was also working in a printing press at Tiruppur and he is the relative of the victim and he was permitted to stay with them and when her friends Malar, Deepa and Rani were out of station, the petitioner herein had promised the victim to marry her and had physical relationship due to which she became pregnant in the year 2009 and even after knowing the fact that the victim became pregnant, the petitioner promised to marry her in the presence of family members and went to his native place. Thereafter, the petitioner failed to contact the victim and also refused to marry her. When it was questioned by her parents, they were threatened with dire consequences. Therefore, the respondent registered First Information Report in Crime No.4 of 2009 for the offences under Sections 417, 294(b), 506(2) IPC and Section 4 of Tamilnadu Prohibition of Harassment of Women Act.



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After completion of investigation, the respondent filed final report and the same has been taken on file in C.C.No.218 of 2009 on the Judicial Magistrate, Devakottai.

3. Before the trial court, on the side of the prosecution, P.W.1 to P.W. 22 were examined and Ex.P.1 to Ex.P.8 were marked. On the side of the accused, no one was examined and no document was marked in order to disprove the case of the prosecution.

4. On perusal of oral and documentary evidence, the trial court found the petitioner guilty for offences under Section 417 IPC and Section 4 of Tamilnadu Prohibition of Women Harassment Act. He was sentenced to undergo 1 year R.I for offence under Section 417 IPC and also fine of Rs.3,000/- in default of payment of fine, he shall undergo 2 weeks S.I. He was sentenced to undergo 2 years R.I for offence under Section 4 of Tamilnadu Prohibition of Harassment of Women Act and also imposed fine of Rs.5000/- in default of payment, the petitioner shall undergo 2 weeks S.I. Aggrieved by the same, the preferred an appeal. In appeal, the Appellate



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Court partly allowed thereby acquitted the petitioner for the offence under Section 4 of Tamilnadu Prohibition of Harassment of Women Act and confirmed the conviction and sentence imposed under Section 417 IPC. Aggrieved by the same, the present revision has been filed.

3.The learned counsel for the revision petitioner would submit that the victim was aged more than 18 years at the time of occurrence and she was fully aware of the consequence of physical relationship. He would further submit that though the petitioner made a false promise to marry her and on the pretext he had physical relationship, the victim had knowledge about the consequence of the physical relationship and therefore, the offence under Section 417 IPC would not attract as against the petitioner. Even according to the victim, the petitioner had physical relationship continuously for the period of 6 months.

4. In support of this contention, the learned counsel for the revision petitioner has relied upon the judgment of the Hon'ble Supreme Court in **Pramod Suryabhan Pawar Vs. The State of Maharashtra and another**



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5. The learned Additional Public Prosecutor would submit that the victim was aged only 18 years at the time of occurrence and admittedly the petitioner was staying with the victim and he had physical relationship with the victim due to which she got pregnant and she asked to marry her for which the petitioner assured that he would marry her in the presence of his family members and thereafter, he went to his native place and refused to marry her and the parents of the petitioner threatened the victim and refused to get marry with the victim.

5. The learned Additional Public Prosecutor would further submit that the courts below acquitted the parents of the petitioner/the accused 2 and 3 and as far as the petitioner is concerned, conviction and sentence for offence under Section 417 IPC was confirmed by the First Appellate Court.



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Therefore, the concurrent findings of the courts below does not require any interference by this Court.

6. Heard and perused the materials available on record.

7. The petitioner was staying along with the victim in the year 2008 and both were working at Tiruppur in different places. When the friends of the victim were out of station, the petitioner assured the victim that he will marry her and had physical relationship. Again for 6 months, on the pretext of marriage, he had physical relationship. P.W.2 also requested the petitioner to marry the victim and he refused to marry the victim. Therefore, her evidence is very clear and corroborated the evidence of the victim. All the witnesses also corroborated the evidence of the victim. Therefore, the judgments cited by the learned counsel for the petitioner are not helpful since both are not applicable to the present case. Under the pretext of marriage, the petitioner had subjected the victim to sexual intercourse with him and after she became pregnant he betrayed her. The act of the petitioner would clearly attract the offence under Section 417 IPC and therefore, both



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the courts below rightly convicted the petitioner for the offence under Section 417 IPC and this Court finds no merit in this revision and accordingly, the judgment of Fast Track Mahila Court, Sivagangai in C.A.No. 8 fo 2014 dated 17.10.2016 modifying the order passed by the Judicial Magistrate, Devakottai in C.C.No.218of 2009 dated 21.01.2014 is confirmed.

8. In fine, this Criminal Revision Petition is dismissed.

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NCC: Yes/No
Index : Yes/No
Internet: Yes/No
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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Judicial Magistrate, Devakottai
- 2.The Fast Track Mahila Court, Sivagangai
- 3.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

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