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Crl. A. No.83 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2024

CORAM

MR.JUSTICE N.SESHASAYEE

Criminal Appeal No.83 of 2017

Ramkumar @ Ramu

... Appellant

Vs.

State Rep by
The Inspector of Police
B-3 Esplanade Police Station
Chennai - 600 104

... Respondent

PRAYER: Criminal Appeal filed under Section 374 of the Criminal Procedure Code to set aside the judgment dated 06.02.2017 made in S.C. No.374 of 2014 on the file of learned City Civil and Sessions Judge, Mahila Court at Chennai.

For Appellant : Ms.M.Kruthika

For Respondent : Dr.C.E.Pratap
Govt. Advocate (Crl. Side)
Assisted by Ms.J.R.Archana, Advocate



JUDGMENT

This appeal is preferred challenging the judgment convicting the appellant herein for offences under Section 307 IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act. For the first mentioned offence, the appellant was sentenced to undergo seven years rigorous imprisonment and a fine of Rs.5,000/- in default to pay which, he was directed to undergo six months rigorous imprisonment. For the second mentioned offence he was sentenced to undergo two years rigorous imprisonment and was slapped with a fine of Rs.10,000/- and in default to pay which he was directed to undergo three months rigorous imprisonment.

2. The prosecution case runs as below:

- PW1, a woman aged around 30 years and married, but has been abandoned by her husband. She is living with her mother and brother.
- On 14.01.2012 in the morning while PW1 was returning home after fetching water from a public tap, A1, pulled her by hand and was alleged to have told PW1 that he wanted to talk to her but PW1 shrugged it off and proceeded towards her house.
- Later in the day, at around 4.30 p.m in the evening, PW1 was relaxing in



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the terrace portion of her house and suddenly she felt someone was running his hand over her leg and when she turned to shrug off, she found that the appellant herein was doing it. Later, the appellant molested her and PW1 pushed him aside and tried to come down. She screamed and tried to come down but the appellant would try to strangle her with MO1, nylon rope, and thereafter, she fainted. Soon the appellant escaped from there. PW1 was admitted to Rajiv Gandhi Government General Hospital, Chennai, where PW8, treated her and came out with Ext.P2, Accident Register, wherein the doctor had noted that the victim had sustained a lacerated injury around her neck, blood was oozing out from her left eye and a ligature mark was found around the neck. PW1 was in the hospital for next 12 days and the hospital gave Ex.P3, wound certificate.

- In the meantime, within about an hour since the occurrence had taken place, the investigating agency recorded Ext.P1, complaint statement of PW1 when she was still in the hospital. Based on Ext.P1, complaint statement, PW9 registered Ext.P4, FIR. PW10 would then take up the investigation, visit the SOC and prepare Ext.P6, observation mahazar and Ext.P5, rough sketch. He also seized MO1 under Ext.P7, Seizure Mahazar.



- Initially, FIR was registered for offences under Sections 366 and 307 IPC, but the investigating officer later filed Ext.P8, alteration report under which he had altered the provisions to Section 354 IPC and 307 IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act. The charges were later altered by the trial court and it was altered to Section 307 IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act. Post trial, the trial court found the appellant guilty of both the charges framed against him and sentenced him as above.

Challenging the said judgment, this appeal is preferred.

3. The learned counsel for the appellant argued as below:

- There is considerable suspicion about the very registration of FIR. PW1, in her chief examination would depose that she was unconscious and that she regained consciousness only after about a week of the occurrence. However, according to PW9, the complaint statement was given by PW1 within an hour after the occurrence and this is impossible, as the same is inconsistent with the testimony of PW1.
- According to the prosecution case, on the very date of occurrence, there was an earlier incident said to have taken place in the morning but PW1



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has not testified to it. Indeed if only that incident had happened it was natural for PW1, who was under the care of her mother and brother, and were examined as PW2 and PW4 respectively. This would imply that PW1 is capable of embellishing her line of the story to them but she did not.

- To implicate the appellant in the matter, there is a strong suspicion about the place of occurrence too. PW1 is residing in a six floor apartment and going by her testimony, the occurrence should have taken place in the third floor whereas according to the investigating officer, it has taken place in the terrace above the sixth floor.

4.1 Per contra, the learned Government Advocate (Crl. Side) submitted that it cannot be disputed that an attempt was made on the life of PW1. Ext.P2, Accident Register confirms the same, according to which, PW8 had found ligature marks around the neck of PW1 and PW1 shows her accusing finger firmly and consistently at the appellant.

4.2 Secondly, the defence has no case as to why PW1 should falsely implicate him. The line of cross-examination of PW1 to PW4 does not bring to light any specific motive for false implication.



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5. The rival submissions are carefully weighed. As correctly contended by the learned Government Advocate (Crl. Side), it cannot be disputed that an attempt was made on the life of PW1. Indeed there are ligature marks around the neck of PW1 and it is inconceivable that PW1 should try to strangle herself with a rope. The defence also does not project a case of a third party intervening to strangle her. The evidence of PW1 is consistent and believable and it is amply supported by medical evidence. This court has little to suspect the sustainability of the conclusion arrived by the learned Sessions Judge and hence it is constrained to confirm its findings on the appellant.

6. Turning to the sentence part of it, this court finds that the sentence as imposed by the trial court is not disproportionate to the nature of the crime and hence this court also confirms the sentence imposed by the Sessions Court. This court does not find any error or illegality in the judgment of the trial court and the same deserves confirmation.



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7. In conclusion, this appeal is dismissed and the judgment of conviction and sentence imposed by the learned City Civil and Sessions Judge, Mahila Court at Chennai dated 06.02.2017 made in S.C. No.374 of 2014 is confirmed. It is informed by the learned counsel for the appellant that the appellant is on bail from 21.11.2018. The bail bond executed by the appellant/accused shall stand cancelled forthwith. The appellant/accused is required to surrender before the trial court on or before 20.09.2024 to undergo the remaining part of the sentence.

03.09.2024

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Index : Yes / No

Neutral Citation : Yes/No

To

1. The Sessions Judge, Mahila Court at Chennai.
2. The Public Prosecutor, High Court, Madras

Note to Registry:

Issue judgment copy
on or before 18.9.24.

B/o.

Asr

18.9.24



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N.SESHASAYEE, J.

Asr

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