



WEB COPY



Crl.A.No.1323 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

Crl.A.No.1323 of 2022

Ragul

... Appellant

Vs.

State Rep by,
Inspector of Police,
All Women Police Station,
Erode.
(Crime No.13 of 2021)

... Respondent

Prayer: Criminal Appeal filed u/s.374(2) of the Code of Criminal Procedure, seeking to call for the records and set aside the Judgment dated 05.12.2022 made in SC No.40 of 2021 by the learned Sessions Judge, Mahalir Neethi Mandram (Fast Track Mahila Court), Erode.

For Appellant : Mr.R.Vijayakumar

For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor



Crl.A.No.1323 of 2022

JUDGEMENT

WEB COPY

This Criminal Appeal has been filed by the appellant seeking to set aside the conviction and sentence imposed on the appellant by the judgement dated 05.12.2022 passed by the learned Sessions Judge, Mahalir Neethi Mandram, (Fast Track Mahila Court), Erode in S.C.No.40 of 2021.

2. The case of the prosecution is that, the *de-facto* complainant was working as compere and the appellant organize events in the name of “The Bigday event management company”. They both got introduced and they fallen in love with each other. It is alleged that the appellant had intercourse with the *de-facto* complainant and received Rs.8,00,000/- and also 1½ sovereign of gold from *de-facto* complainant upon giving assurance of marrying her and thereafter, he refused to do the same. Therefore, the *de-facto* complainant had lodged a complaint as against the appellant and after investigation, final report was filed u/s 376 and 406 of IPC and the matter was taken cognizance in S.C.No.40 of 2021 on the file of learned Sessions Judge, Mahalir Neethi Mandram, (Fast Track Mahila Court), Erode.



Crl.A.No.1323 of 2022

WEB COPY

3. After elaborate discussions, the trial court convicted the appellant/accused u/s 376 of IPC and sentenced him to undergo rigorous imprisonment for 10 years and to pay a fine of Rs.5,000/-, in default to undergo 3 months simple imprisonment. Aggrieved by the same, the present appeal is filed.

4. When the case was taken up for hearing today, learned counsel appearing for the appellant submitted that both the appellant as well as the respondent have appeared before this court and submitted that, during the pendency of the proceedings in trial court itself, the appellant married the *de-facto* complainant on 21.06.2021 and the *de-facto* complainant has consented for compounding the offence u/s 376 of I.P.C.

5. To that extent, a Joint Compromise affidavit dated 20.04.2024 has been filed before this Court, which has been duly signed by the appellant and his counsel and the *de-facto* complainant. The appellant and the *de-facto* complainant appeared before this Court and they were identified by law enforcing agency. Further, they have also produced the photographs of their marriage and the marriage register. The relevant



Crl.A.No.1323 of 2022

portion of the Joint Compromise affidavit reads as follows :-

WEB COPY

“4. It is submitted that aggrieved by the said order made in S.C.No.40 of 2021 on the file of the Sessions Judge, Mahalir Neethi Mandram, (Fast Track Mahila Court), Erode. 05.12.2022, Appellant herein preferred the present Appeal. It state that the pending proceedings in Trial Court itself, Appellant married the victim Mohanapriya and the same is duly registered on the file of the Sub Registrar Ganapathy on 21.06.2021. It is submitted that the same was also duly communicated to Appellant's advocate and as well as to the prosecution, but the same has not been properly communicated to the Hon'ble Court, which resulted in conviction.

5. It is submitted that after marriage since 2021, we are living peaceful life without any quarrel and hereby the appellant also filing Compounding Petition in this Appeal proceedings. In view of the conviction, the life of the victim and as well as Appellant's life will be put to serious prejudice and untold hardships. Hence, filing this joint compromise affidavit.

It is therefore prayed that this Hon'ble Court may be pleased to record the Joint Compromise Affidavit filed by the Appellant and Victim and consequently set aside the Conviction Order dated 05.12.2022 made in S.C.No.40 of 2021 on the file of the Sessions Judge, Mahalir Neethi Mandram (Fast Track Mahila Court), Erode and thus render justice.”



Crl.A.No.1323 of 2022

WEB COPY

6. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves. The parties have reiterated that they have married on 21.06.2021 itself and living happily and the *de-facto* complainant has no objection for compounding the offence.

7. In the case of **Damodar S. Prabhu Vs. Syed Babalal H., reported in [2010 (5) SCC 663]**, the Full Bench of the Hon'ble Supreme Court has held that where the offences are essentially of a private nature and relatively not quite serious, the Code considers it expedient to recognise some of them as compoundable offences and some others are compoundable only with the permission of the Court. In this regard, it is useful to extract hereunder paragraph 16 :

"16. It is evident that the permissibility of the compounding of an offence is linked to the perceived seriousness of the offence and the nature of the remedy provided. On this point we can refer to the following extracts from an academic commentary [cited from : K.N.C. Pillai, R.V.Kelkar's Criminal Procedure, Fifth Edn. (Lucknow: Eastern Book Company, 2008) at p.444]



WEB COPY



Crl.A.No.1323 of 2022

"17.2. Compounding of offences .-- A crime is essentially a wrong against the society and the State. Therefore any compromise between the accused person and the individual victim of the crime should not absolve the accused from criminal responsibility. However, where the offences are essentially of a private nature and relatively not quite serious, the Code considers it expedient to recognise some of them as compoundable offences and some others as compoundable only with the permission of the Court."

8. In the present case, the offences in question are purely individual/personal as it involves the appellant and the *de-facto* complainant. Quashing the proceedings will not affect any overriding public interest in this case and it will in fact pave way for the appellant and the *de-facto* complainant to settle down in their life and look for better future prospects. No useful purpose will be served in continuing with the criminal proceedings and keeping the proceedings pending will only swell the mental agony of the appellant and the *de-facto* complainant.

9. In view of the above, the conviction and sentence imposed on the appellant vide judgment dated 05.12.2022 passed in S.C.No.40 of 2021 by



Crl.A.No.1323 of 2022

the learned Sessions Judge, Mahalir Neethi Mandram (Fast Track Mahila Court), Erode is set aside and the appeal is allowed. Further, the appellant is acquitted from all the charges levelled against him. The terms of joint compromise affidavit dated 20.04.2024 shall form part of the records.

18.07.2024

Index : Yes / No

Speaking order / Non-speaking order

NCC : Yes / No

sp

To

The Sessions Judge, Mahalir Neethi Mandram, (Fast Track Mahila Court), Erode.



WEB COPY



Crl.A.No.1323 of 2022

M.DHANDAPANI, J.

sp

Crl.A.No.1323 of 2022

18.07.2024