



Crl.A.No.126 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.07.2025

PRONOUNCED ON : 05.08.2025

CORAM

THE HONOURABLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.No.126 of 2023

Govindaraj

... Petitioner

Vs.

State Rep. by its
The Inspector of Police,
All Women Police Station,
Ulundurpet,
In Crime No.20 of 2019

... Respondent

Prayer:- Criminal Appeal filed under Section 374(2) of Cr.P.C., to set aside the conviction and sentence against the appellant in S.C.No.16 of 2021 on the file of the learned Sessions Judge, Mahila Court (Fast Track Mahila Court) Villupuram, dated 07.01.2023 and allow this appeal.

For Petitioner : Mr.S.Saravana Kumar

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor



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JUDGMENT

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This Criminal Appeal has been preferred as against the judgment dated 07.01.2023 passed by the learned Sessions Judge, Mahila Court, Fast Track Mahila Court, Villupuram, made in Special S.C.No.16 of 2021, thereby convicting the appellant for the offences punishable under Sections 451, 342 & 376 of IPC.

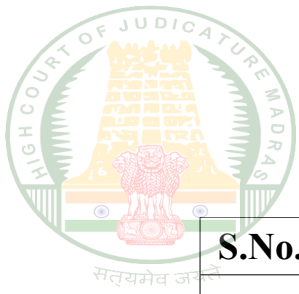
2. The case of the prosecution was that on 16.09.2019 at about 3.30 p.m., when the victim was lying on the bed at her home, the first accused had entered into her house and committed rape on her by tying her hands and legs. He also shut her mouth with a towel. Thereafter, he flew away from the scene of crime in his two wheeler bearing registration number TN-32-L-5261. After hearing the screaming of the victim, her children and neighbours came to her house and found that the first accused, after committing rape on the victim, had flown away in his two wheeler. It was immediately informed to the second accused viz., the father of the first accused for which, he scolded the victim with filthy language and also threatened her with dire consequences. On the complaint, the respondent registered the FIR in Crime No.20 of 2019 for the offences punishable under Sections 294(b), 452, 376 & 506(1) of IPC.



After completion of investigation, the respondent filed final report for the offences punishable under Sections 450, 342, 376 & 323 of IPC as against the first accused and for the offences punishable under Sections 294(b), 506(i) of IPC as against the second accused.

3. In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.20 and marked documents in Ex.P.1 to Ex.P.22. The prosecution also produced one material object in M.O.1. On the side of the accused, they examined D.W.1 & D.W.2 and no documents were marked. On perusal of the oral and documentary evidences, the trial Court convicted the first accused alone for the offence punishable under Sections 451, 342 & 376 of IPC and sentenced him as follows :-

S.No.	Conviction	Sentence
1	Section 451 of IPC	to undergo rigorous imprisonment for a period of two (2) years and to pay fine of Rs.3,000/-, in default to undergo simple imprisonment for further period of three months.
2	Section 342 of IPC	to undergo rigorous imprisonment for a period of one (1) year and to pay fine of Rs.1,000/-, in default to undergo simple imprisonment for further period of three months.
3	Section 376 of IPC	to undergo rigorous imprisonment for a period of ten (10) years and to pay fine of Rs.10,000/-, in default to undergo simple imprisonment



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S.No.	Conviction	Sentence
		for further period of three months.

The above sentences are ordered to run concurrently. Aggrieved by the same, the present appeal.

4. The learned counsel appearing for the appellant submitted that there were full contradictions amongst the evidences of P.W.1, P.W.3 and P.W.9. They also deposed inconsistently. Therefore, their evidences cannot be trust worthy and cannot be relied upon. Unfortunately, the trial Court based on their evidences convicted the appellant. Further P.W.1, P.W.3, P.W.4, P.W.8 & P.W.9 are close relatives and they are interested witnesses. No independent witness was examined to corroborate the evidence of the victim. In fact, the appellant's identity was not proved by the prosecution. Even according to the case of the prosecution, P.W.1 to P.W.4 went to the house of the accused and informed about the occurrence to the second accused viz., father of the first accused. The second accused scolded them with filthy language. Though the second accused was charged for the offences punishable under Sections 294(b) & 506(i) of IPC, he was acquitted by the trial Court for the reason that the trial Court disbelieved the evidence in toto. Therefore, it is also applicable to the first accused and he is also entitled for

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acquittal.

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4.1. He further submitted that according to the case of the prosecution, the victim's hands were tied to the cot with cloth and her mouth was also gagged with a cloth. However, the prosecution failed to recover any cloth to prove the said allegation. Further, the children of the victims were examined as P.W.8 and P.W.9. According to them, after hearing the noise of their mother, they had seen through window. However, the victim did not say anything about her children and others who came to her house. Further, the statement of the victim was recorded under Section 164 of Cr.P.C. She did not even whisper about her hands and legs being tied by the appellant herein. Therefore, the P.W.1 has not inspired confidence and without corroborating any materials, her statement cannot be taken as a trust worthy one.

4.2. He also submitted that though the case of the prosecution was that, after the occurrence the appellant fled away from the scene of crime in his motor cycle, the prosecution failed to produce the motor cycle before the trial Court. He further submitted that the doctor, who had examined the victim, also failed to support the case of the prosecution. The doctor was



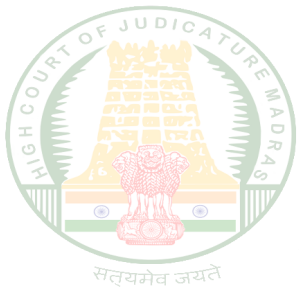
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examined as P.W.18 and she deposed that there was no injury on the genitalia of the victim.

4.3. He further submitted that the alleged occurrence had taken place on 16.09.2019. But the complaint was lodged only on 20.09.2019. There was a delay in lodging the complaint and there was absolutely no explanation for the delay in lodgment of the complaint. In support of his contention, he relied upon the judgments as follows :-

(i) ***2025 SAR Online (SC) 524 – Keshav & anr., Vs. State of Maharashtra***

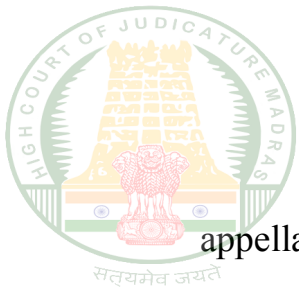
(ii) ***(2004) 12 SCC 101 – State of H.P. Vs. Sukhvinder Singh***



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5. Per contra, the learned Additional Public Prosecution appearing for the respondent submitted that the victim was examined as P.W.1. Her husband was examined as P.W.2. Her neighbours viz. P.W.1's brother-in-law and his wife were examined as P.W.3 and P.W.4. P.W.1's children were examined as P.W.8 and P.W.9. All had categorically deposed that the accused had tied the victim's hands and legs and also gagged her mouth with cloth and had committed rape. After hearing the noise of the victim, both the children were looking through the window and were screaming. Immediately P.W.3 and P.W.4 had gone there and the first accused opened the door and flew away in his two wheeler. Therefore, though they are relatives to each other, they categorically deposed about the occurrence. Therefore, they are trust worthy evidences and need not to be corroborated by other witnesses. The minor contradictions cannot be fatal to the case of the prosecution.

5.1. He further submitted that the doctor who examined the victim had deposed as P.W.18. She categorically deposed that though there was no injury on her genitalia, the rape cannot be ruled out. Further P.W.1 had already delivered two babies and as such her hymen was not intact. Therefore, the prosecution prove the charges and the trial Court rightly convicted the

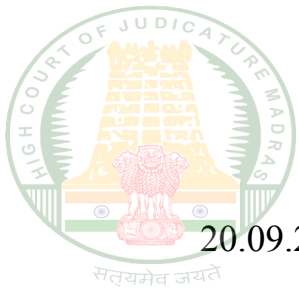


appellant. Hence it doesn't warrant any interference from this Court.

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6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. On 16.09.2019 at about 3.30 p.m., when the victim was lying in the bed at her home, the appellant went into the house and locked the door. Further, he tied the victim's hands and legs and also gagged her mouth with cloth. Thereafter, he committed rape on her. At that juncture, the children of the victim returned to their home from school and they had seen that their mother was screaming inside the house. Therefore, they looked into the house through window and cried. Thereafter, P.W.3 and P.W.4 came to the house. Immediately, the accused after wearing his dothi, flew away from the scene of crime in his two wheeler. P.W.3, P.W.4, P.W.8 and P.W.9 had seen him. Immediately, they rushed into the house and removed the knots and set free the victim. The accused was known to them and as such immediately, they rushed to the accused's house, where his father viz., the second accused was there and they informed about the occurrence. He scolded them with filthy language and also sent them away. Therefore, they lodged complaint on



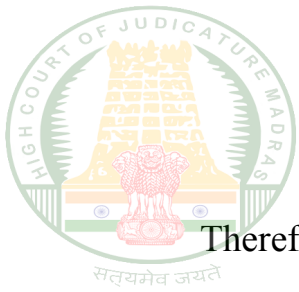
20.09.2019.



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8. In the case of sexual offence, the delay is not a matter of concern as there could be various circumstances for the victim to lodge complaint belatedly. The complaint was marked as Ex.P.1. Immediately, the FIR was registered and the victim was subjected for medical examination. The victim was examined as P.W.1. She categorically deposed that when she was lying on the bed, the accused entered into her house and locked the door. When the victim raised alarm, the accused gagged her mouth with towel and also tied her hands to the cot and tied her legs. Thereafter, he committed rape on her. At that juncture, her children returned home and they knocked the door. After seeing her through window, they had started to cry, thereby causing an alarm. On hearing the same, P.W.3 and P.W.4 came there. Immediately, the accused after wearing his dothi, flew away from the scene of occurrence in his two wheeler. In fact, P.W.4 had attempted to catch him. Her evidence was categorically corroborated by P.W.3 and P.W.4. Her husband was examined as P.W.2. However, he was only hear-say evidence. Her children were examined as P.W.8 and P.W.9. They categorically deposed about the occurrence and corroborated the evidence of P.W.1, P.W.3 and P.W.4.



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Therefore, there are absolutely no circumstances to consider the delay in lodgment of complaint. Though there was delay of four days in lodgment of complaint from the date of occurrence, it is understandable that the victim would have been subjected to severe mental agony, due to such traumatic experience. Therefore, she lodged complaint only on 20.09.2019.

9. After registration of FIR, the victim was subjected to medical examination. The doctor was examined as P.W.18 and she deposed that the rape could not be ruled out, though there was no injury on her genitalia. Therefore, the doctor also clearly supported the case of the prosecution. There is no evidence to disbelieve the case of the prosecution. The appellant herein is examined as D.W.1. Though he had taken defence that there was previous enmity between both the families, there was no evidence to disprove the case of the prosecution. Further small contradictions are there between the statement recorded under Section 164 of Cr.P.C., and the evidence of P.W.1. But it cannot be fatal to the case of the prosecution, since her evidence is clearly corroborated by other evidences, though they are relatives. Therefore, the judgment reported *(2004) 12 SCC 101* in the case of *State of H.P. Vs. Sukhvinder Singh* relied by the learned counsel appearing for the appellant is



not helpful to the case on hand.

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10. Insofar as the other judgment reported in **2025 SAR Online (SC) 524** in the case of **Keshav & anr., Vs. State of Maharashtra** relied upon by the learned counsel appearing for the appellant is concerned, in the above case the doctor did not support the case of the prosecution. In the case on hand, the doctor who had examined the victim was examined as P.W.18. She categorically deposed that the victim had already delivered two children and though there was not injury on the genitalia of the victim, the rape could not be ruled out.

11. According to P.W.1, her hands were tied to the cot and thereafter the appellant had committed rape on her. Therefore, there was no chance for any injury. That apart, she was subjected to medical examination after a period of four days. Therefore, it cannot be said that the doctor failed to support of the case of the prosecution. Hence, the judgment relied upon by the learned counsel appearing for the appellant is not helpful to the case on hand. Over all, the prosecution had categorically proved the charges and the trial Court rightly convicted the appellant and this Court finds no infirmity or



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illegality in order passed by the trial Court and hence the appeal fails and is

liable to be dismissed.

12. Accordingly, this Criminal Appeal stands dismissed.

05.08.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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- To
1. The Sessions Judge,
Mahila Court (Fast Track Mahila Court)
Villupuram,
 2. The Inspector of Police,
All Women Police Station,
Ulundurpet.
 3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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Judgement in
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