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Crl.R.C.No.1243 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1243 of 2022

Kamaraj

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Thiruvarur Police Station,
Thiruvarur.
Crime No.394 of 2015.

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 r/w. 401 of Code of Criminal Procedure to set aside the conviction and sentence imposed in the judgment of the learned Principal Sessions Judge at Thiruvarur in Crl.A.No.2 of 2021 dated 08.11.2021 confirming the conviction and sentence imposed in the judgment of the learned Judicial Magistrate, Thiruvarur in C.C.No.4 of 2020 dated 07.12.2020 and directed to return the fine amount of Rs.10,000/- paid by the petitioner.

For Petitioner : Ms.Chandrleka



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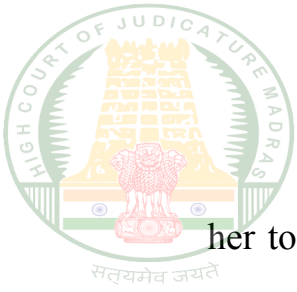
Crl.R.C.No.1243 of 2022

For Respondent : Mr.L.Baskaran
Government Advocate (Crl. Side)

ORDER

The petitioner/accused was convicted by the learned Judicial Magistrate, Thiruvarur in C.C.No.4 of 2020 by judgment dated 07.12.2020 and sentenced to undergo two years simple imprisonment and to pay a fine of Rs.10,000/-, in default to undergo six months simple imprisonment for the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. Aggrieved against the same, the petitioner preferred an appeal before the Sessions Court in C.A.No.2 of 2021. The learned Principal Sessions Judge, Thiruvarur dismissed the appeal confirming the conviction and sentence of the Trial Court by judgment dated 08.11.2021. Against which, the present revision is filed.

2.The gist of the prosecution case is that on 22.07.2015 at about 7.30 p.m., the defacto complainant/P.W.1 was walking near Vilamal Bazaar, Thiruvarur and she was to visit her husband who was taking treatment as inpatient in the Hospital. At that time, the petitioner who is from the adjacent Village, enquired the defacto complainant and offered a lift to take



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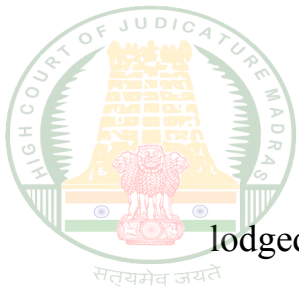
her to Hospital. The defacto complainant went along with the petitioner in his bike and during the travel, the petitioner placed his hands on the thighs of the defacto complainant and started rubbing, which she resisted, shouted at him and she was pushed down. Thereafter, the petitioner attempted to pull her Saree and also tore her blouse. P.W.1 raised alarm, the nearby persons came to her rescue and the petitioner ran away from the place. Thereafter, the petitioner went to the Hospital and from there, information sent to respondent Police. The Sub-Inspector of Police came to the Hospital, recorded the statement of P.W.1, registered FIR and thereafter, he visited the scene of occurrence, recorded the statement of witnesses who were present in the scene of occurrence, prepared observation mahazar, rough sketch, arrested the accused and on completion of investigation, charge sheet filed. During Trial, P.W.1 to P.W.7 examined and Ex.P1 to Ex.P5 marked on the side of the prosecution. On the side of the defence, no witness examined and no documents marked. On conclusion of trial, the Trial Court convicted the petitioner as stated above which was confirmed by the Lower Appellate Court.

3.The contention of the learned counsel for the petitioner is that before



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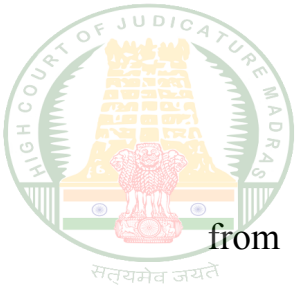
the Trial Court, the petitioner was charged for the offence under Sections 294(b), 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, on conclusion of trial, the Trial Court acquitted the petitioner for the offence under Sections 294(b) and 506(i) IPC but convicted him for offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. When the Trial Court disbelieved the prosecution evidence for the offence under Sections 294(b) and 506(i) IPC convicting the petitioner for the consequential act under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act is not proper. The Lower Appellate Court confirmed the conviction imposed by the Trial Court. In this case, P.W.1 is the victim, in her complaint she stated that she was proceeding to Hospital to meet her husband as pillion rider on the bike of the petitioner and on the way, the petitioner is said to have pulled her Saree from her shoulders which was resisted, due to which, she was pushed down, sustained injuries on her hand and legs, but she had not stated anything with regard to the petitioner using abusive words or threatening her and no explanation given as to for what reason she was pushed down. P.W.1 admits that the petitioner is a distant relative and he is from neighbouring Village and there was a Panchayat with regard to the incident which failed and she



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lodged the complaint. Further, she states that one Natarajan held the Panchayat and he took her to the Police Station to lodge a complaint but the said Natarajan not examined as witness in this case. Further, there is no medical records produced to show that on the date of occurrence whether at all her husband was in the Hospital and what treatment he underwent. P.W.2 stated that he was present along with P.W.3 and both talking near the scene of occurrence, on hearing the shout, they saw the petitioner pulling the Saree of the defacto complainant/P.W.1 and she resisted the same and P.W.1 assaulted the petitioner with a umbrella which is a new fact. P.W.2 is a relative of P.W.1. P.W.3 states that he had seen the petitioner assaulting P.W.1 and she sustained injuries and blood was oozing out from her hands. He further stated that he pacified P.W.1 and the petitioner left the place. The evidence of P.W.4 and P.W.5 are also on the similar lines. But the presence of P.W.2 to P.W.5 highly doubtful since each of them giving contradictory version.

4.The learned counsel further submitted that all the witnesses stated that the victim/P.W.1 got injured and took treatment but no medical records produced in that regard. Though P.W.6 states that after getting information



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from TMC Hospital, she enquired the victim/P.W.1 who was taking treatment as inpatient and thereafter registered FIR/Ex.P3 is also doubtful.

In the complaint there is no attestation by any Doctor from the Hospital, on the other hand FIR records that P.W.1 had come to Police Station, lodged the complaint. The petitioner and P.W.1 are relatives, there was some misunderstanding between them and there was a wordy altercation which was magnified and projected as though the petitioner took P.W.1 in his two wheeler, pushed her down near the Petrol Bunk and also pulled her Saree. In this case neither the two wheeler nor the umbrella used by P.W.1 to defend and attack the petitioner produced. In this case, the Trial Court found no use of abusive and obscene words, caused threat or criminal intimidation by the petitioner. In such circumstances, it is clear no harassment caused by the petitioner to P.W.1. The Women Harassment Act was primarily to curb eve teasing any women in public places such as Educational Institutions, Temple, Place of Worship, Bus stop, Road, Railway Station, Cinema Theatres, Park, Beach, Place of festival and other public places. In this case, a private fight between the petitioner and P.W.1 magnified and projected as though it is a case of women harassment. He further submitted that now the victim/P.W.1 realized her mistake and came forward to withdraw the case



against the petitioner.

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5.The learned Government Advocate (Crl. Side) opposed the petitioner's contention stating that P.W.6 on receipt of information from the Hospital visited P.W.1, enquired her, recorded her statement and thereafter registered FIR. P.W.7/Investigating Officer took up the investigation, visited the scene of occurrence, prepared observation mahazar and rough sketch and examined the witnesses present in the scene of occurrence. P.W.2 to P.W.5 who corroborate the statement of P.W.1. P.W.1 in her complaint had not given complete details and that is the reason why all particulars not recorded in the FIR. FIR is not an encyclopedia to contain all details. During investigation, details collected, statement recorded and accused arrested. In this case, the umbrella of P.W.1 and two wheeler of the petitioner not seized since it was not required for the case. He would submit that for the offence charged against the petitioner sufficient materials collected and charge sheet filed. During trial P.W.1 to P.W.7 examined and Ex.P1 to Ex.P5 marked. The Trial Court on the available materials and evidences rightly convicted the petitioner, confirmed by the Lower Appellate Court. He fairly submitted that now the victim has come forward



to withdraw the complaint and compound the offence and P.W.1 produced her affidavit in this regard, verified and confirmed by the Investigating Officer.

6.Considering the submissions made and on perusal of the materials, it is seen that in this case, the petitioner was charged before the Trial Court for the offence under Sections 294(b), 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. The Trial Court on the evidence found the offence under Sections 294(b) and 506(i) IPC not proved. Section 4 of Tamil Nadu Prohibition of Harassment of Women Act is a combination of Sections 294(b) and 506(i) IPC. P.W.1 admits that the petitioner is a relative and there was some misunderstanding between them. The presence of P.W.2 to P.W.5 highly doubtful and their evidence are contradictory to each other. Now the only evidence available is that of P.W.1. In her earliest statement, P.W.1 states that there was wordy quarrel between them and she was pushed down from the two wheeler and she sustained injuries, pulling of Saree and her blouse by the petitioner is a later addition, improvement and no materials produced in this regard. Further no medical records for the treatment taken by P.W.1's husband which is the genesis of the case and for



the injury sustained by P.W.1 produced. When the Trial Court disbelieved the evidence as regards Sections 294(b) and 506(i) IPC, convicting the petitioner under Section 4 of Women Harassment Act is not proper and sustainable.

7.Now P.W.1 appeared and filed her affidavit stating that the issued between the petitioner and P.W.1 has been harmoniously settled between them. The entire complaint was due to heat of passion and nothing more. Thus, from the evidence and considering the subsequent development, this Court finds the conviction and sentence imposed on the petitioner under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act is not sustainable. Hence, the conviction and sentence imposed on the petitioner by the Trial Court, confirmed by the Lower Appellate Court is not sustainable.

8.Accordingly, the judgment rendered by the learned Judicial Magistrate, Thiruvarur in C.C.No.4 of 2020 dated 07.12.2020 confirmed by the learned Principal Sessions Judge, Thiruvarur in C.A.No.2 of 2021 dated 08.11.2021 both set aside. The petitioner is acquitted from all the charges levelled against him.



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03.04.2025

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No
cse

To

- 1.The Inspector of Police,
Thiruvarur Police Station,
Thiruvarur District.
- 2.The Judicial Magistrate,
Thiruvarur.
- 3.The Principal Sessions Judge,
Thiruvarur.
- 4.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

cse

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