



Crl.A.No.73 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.73 of 2018

Abdul Riyazudeen

... Appellant

Vs.

The Inspector of Police,  
W16 All Women Police Station,  
Pulianthope, Chennai – 600 012.

... Respondent

Prayer: Criminal Appeal filed under Section 374(2) of Cr.P.C., to set aside the order of conviction passed in S.C.No.52 of 2015 dated 22.01.2018 on the file of the Sessions Judge, Mahila Court at Chennai.

For Appellant : Ms.Asni.J.L.  
For Mr.K.Suthan

For Respondent : Mr.Leonard Arul Joseph Selvam  
Government Advocate (Crl. Side)  
Assisted by Ms.Harshana.T



Crl.A.No.73 of 2018

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## JUDGMENT

The appellant/accused in S.C.No.52 of 2015 convicted by the Trial Court by judgment dated 22.01.2018 for the offence under Section 417 IPC and sentenced to undergo six months simple imprisonment and to pay a fine of Rs.50,000/-, in default, to undergo six months simple imprisonment. Aggrieved against the same, the appellant preferred the present appeal.

2.The case of the prosecution is that the defacto complainant/PW1 and the appellant both studying in Tamil Nadu Institute of Labour Studies from 2011 till 2014, at that time, they developed friendship which blossomed into a love affair, both were in the habit of visiting Park, Beach, Railway Stations and other places. Their relationship further developed, the appellant took the defacto complainant to his house at Viruthachalam for Ramzan where she stayed for two days, at that time, the appellant promised the defacto complainant/victim to marry her and had physical relationship. Thereafter, the defacto complainant took the appellant to her house at Pulianthope and stayed there for two days and there also, they had physical



relationship. During the final year, the appellant was staying in the victim's parents house at Veppampattu in Thiruvallur District and they were commuting to the College regularly. They both had physical relationship regularly when they were alone. The victim was initially hesitant to have any love relationship and physical relationship. The appellant convinced her stating that his father is a Muslim and mother a Hindu, both of them married and they are living happily and there will not any objection from his family side. The victim was staying in Pulianthope along with her brother and attending college, her grandmother was residing nearby. The parents of the victim staying at Veppampattu and victim used to visit her parents during the weekends. During her stay in Pulianthope, she was alone and the appellant used to visit her in Pulianthope and they were in a close relationship. On one of the day, when the victim's father had come to Pulianthope, he found the victim and the appellant together and questioned them. Initially, both not revealed their relationship. Thereafter, the victim's father informed his son/PW5 to enquire and PW5 enquired with his sister/victim, who disclosed the love affair, which was informed to PW2/mother and PW4/father. Thereafter, PW2, PW4, PW5 and their family



friend viz., PW6, went to the appellant's house at Viruthachalam, informed the love affair to the appellant's parents. Initially, the parents of the appellant resisted, but later agreed for the marriage and informed that the marriage can be performed only after five to eight years after the appellant returns back from his employment in Middle East. The parents of the victims asked for an written undertaking, which was refused and thereafter, there was commotion and they left the place. The victim lodged a complaint with the respondent police, who initially registered C.S.R.No.118 of 2014 dated 22.05.2014. The appellant and his family were called for enquiry and for two months, conciliation talks went on. Finally, finding that the appellant and his family members were only buying time in a deceitful manner to cheat the defacto complainant, FIR/Ex.P8 registered in Crime No.5 of 2014 for the offence under Sections 376, 417 r/w. 109 IPC. PW10 took up the investigation, visited the scene of occurrence, prepared observation mahazar/Ex.P2, rough sketch/Ex.P9, produced the victim for medical examination. PW8 is the Doctor who examined the victim recorded Accident Register/Ex.P4 on 04.07.2014 and gave her opinion confirming that the victim was subjected to sexual intercourse. The appellant obtained



anticipatory bail. He was produced for medical examination. PW9/Doctor examined the appellant and gave Potency report/Ex.P7. On concluding of investigation, charge sheet filed against the appellant/A1 and his parents/A2 and A3. During trial, PW1 to PW10 examined, Ex.P1 to Ex.P9 marked and MO1 produced on the side of the prosecution. On the side of the defence, DMO1 to DMO5 marked. On conclusion of trial, the Trial Court acquitted A2 and A3, but convicted the appellant as stated above.

3.The contention of the learned counsel for the appellant is that the appellant and PW1 were studying degree course in Tamil Nadu Institute of Labour Studies during 2011-2014, at that time, they developed friendship which subsequently blossomed into a love affair. The appellant was in relationship with PW1 as classmate and they had close relationship. It was the victim who voluntarily came to the house of the appellant during Ramzan in the year 2012 and stayed there. The victim was staying along with her brother in Pulianthope near her grandmother's house, her parents were staying in Veppampattu, Thiruvallur District the appellant used to visit the victim at Pulianthope and used to do combined studies. On one



occasion there was a small fight, the appellant was heart broken, consumed poison and later he survived that was the intensity of love, further their bondage thickened. The appellant and the victim both educated, in their early teens, developed close relationship, admitted by the victim, the relationship was mutual and not a forced one. It is not the case that the victim not knowing the consequences continued her physical relationship with the appellant. Even before the Doctor/PW8, victim informed her continuous physical relationship with the appellant from the year 2012 to 2014 which is recorded in Accident Register/Ex.P4. PW8/Doctor had given a report that there is no evidence of any external injuries confirming that even the physical relationship was mutual and not by force. Both parents were aware about the love affair between the appellant and the victim and both the families shown no resistance, which embolden them and they continued their relationship. MO1 and DMO1 to DMO5 are the photographs taken during the College farewell day function and the victim took photographs with the appellant as well her classmates. The parents of the victim insisted for immediate marriage, the plans of appellant and his family members were otherwise. They wanted the appellant to get



employed in Middle East, make some good earnings for few years and thereafter come back and have his marriage, and they sought five years time which was not agreeable and there was some misunderstanding in this regard. This misunderstanding manifested, blown out of proportion and projected as though it is a case of rape.

4.The learned counsel for the appellant further submitted that even the parents of the appellant arrayed as accused in this case but the Trial Court acquitted them. The main charge against the appellant is for the offence under Sections 376 and 506(ii) IPC but the appellant was acquitted from these charges and convicted only for the offence under Section 417 IPC. This conviction is not sustainable for the reason, at the time of inception of appellant's relationship with victim there was no false promise. Even on the day when the victim and her family members during May 2014 when they had come seeking for marriage, the request of the appellant's family is that marriage can be deferred for some more time, till the appellant get settled. It was only to deference of marriage for a later period and the appellant not refused to marry the victim. But in a haste and in a knee jerk



reaction, complaint lodged. PW2 and PW4 are the father and mother and PW5 brother of the victim/PW1. PW6, a family friend and PW7, a friend of PW4, all confirm the close relationship between appellant and victim as classmates. The appellant and the victim were seen together in many places. It is not the case that the appellant refused to marry the victim. Further, the Doctor/PW8 confirm the long relationship between the appellant and the victim as disclosed by the victim. The Trial Court having acquitted the parents of the appellant from all charges and acquitted the appellant from major charges on the same set of evidence wrongly construed that the appellant refused to marry, hence convicted him under Section 417 IPC. In this case, there is no deception to attract section 450 and the appellant requested for some time to get settle down in his life. Hence, the conviction of the appellant not sustainable.

5.In support of her contention, the learned counsel for the petitioner relied upon the decision in the case of ***Guluk Kathar vs. State of Assam and another*** reported in ***2025 SCC Online Gau 186***, wherein the decision of the Apex Court in the case of ***Promod Suryabhan Pawar vs. State of***



**Maharashtra** reported in **(2019) 9 SCC 608** referred and the Apex Court

held that promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the time it was given and such false promise itself must be of immediate relevance, or it must bear a direct nexus to the women's decision to engage in the sexual act.

6.The learned Additional Public Prosecutor opposed the appellant's contention and submitted that in this case, the victim/PW1 lodged a complaint against the appellant complaining that the appellant forced a love affair with the victim and further on a false promise, had physical relationship with the defacto complainant during the entire college days from 2011 to 2014 had physical relationship on the promise of marriage not once in one place but on several occasions at several places in Viruthachalam, Pulianthope and Veppampattu. The victim had apprehension about the inter-religious marriage, the appellant promised that his father is a Muslim and the mother is a Hindu and it would not be a problem in his family on such promise and assurance given by the appellant not only to the victim even to the parents of the victim viz., PW2 and PW4



and his brother/PW5. The appellant and the victim were classmates and college mates throughout the course, they were together and had physical relationship whenever possible. After completion of the course in the year 2014, the appellant started to neglect and not responded to the phone calls of the victim and completely kept away. The victim along with her parents, brother and father's friend went to the appellant's house and requested for the marriage. The appellant and his family members initially refused the marriage, later they agreed for the marriage but tactfully insisted for a condition to buy time for five years as though appellant is to get employed in Middle East, enquiry revealed there was no such initiative taken, thus from the inception the appellant not committed to marry the victim, for this reason such condition of five years period insisted. The appellant having used the victim for four long years, later showed no interest in marriage. Even the Investigating Officer, on receipt of the complaint during the month of May 2014, not immediately registered the complaint only CSR assigned to find out whether there could be any reconciliation and thereafter only in July FIR registered, finding appellant and his family members deliberately avoiding the marriage. The victim in no uncertain terms disclosed the



intense relationship between the appellant and the victim even to the Doctor/PW8 which is recorded in the Accident Register/Ex.P4. The appellant used the victim and now refused to marry, but the Trial Court on the evidence of PW1, PW2, PW4, and PW8 had rightly convicted the appellant.

7.Considering the submissions and perusal of the materials, it is seen that in this case, the appellant and the victim both classmates for three years from 2011 to 2014, they were together, moving closely in te college and outside and victim voluntarily came to appellant's house at Viruthachalam and stayed there, thereafter appellant was entertained by the victim to visit her house at Pulianthope and Veppammattu. The appellant and the victim visited various places many times together. Though the victim initially had apprehension of marriage, the appellant promised that his parents belonged to different religions, had love marriage and they are living happily. Hence, there will not be any resistance for their marriage and gained confidence of the victim and both had physical relationship many times at various places. The love relationship between the appellant and the victim known to both



families. PW2, PW4, PW5, PW6, and PW7 are the parents, brother and family friends of the victim, all confirmed appellant and victim love affair and seen together in various places. The appellant and the victim both educated, studying a degree course together throughout the course period they were together, developed love relationship and had physical relationship throughout this period which is voluntary. The victim disclosed the continuous physical relationship to PW8/Doctor confirming that the victim and the appellant had physical relationship with consent. The appellant and his family members not refused for the marriage, they insisted marriage can be performed after five years for the reason that the appellant intended to get employment in Middle East and after making good earnings, thereafter to have his marriage which is a normal expectation of any parent and cannot be faulted with. The victim and her family members were insisting on immediate marriage and a written commitment. The compulsion of getting a written undertaking might have been refused for various reasons even hurting the appellant and the family members of their genuine requests suspecting their integrity and hurting their pride and esteem. The Trial Court found the relationship between the appellant and



victim was with consent and victim knowing the consequences had continuous relationship with the appellant and hence acquitted the appellant for the charge under sections 376 IPC. As stated above, with regard to the marriage proposal, it was not a refusal, appellant and his parents requested some time. Seeking time cannot be attributed to be a deceitful act termed as false promise and cheating. What is discernible from the above facts of the case is the relationship between the appellant and the victim have been continuous for more than four years and there cannot be misconception for such long period. It is settled proposition of law that mere refusal to marry would not constitute offence under Section 417 IPC until and unless the requirement under Section 90 IPC is established by the prosecution. In this case, the prosecution failed to established any of the ingredients. The appellant's conviction under Section 417 IPC is not proper. In view of the above, this Court is inclined to set aside the conviction and sentence imposed by the Trial Court.

8.In the result, this Criminal Appeal stands allowed setting aside the judgment dated 22.01.2018 in S.C.No.52 of 2015 passed by the learned



Crl.A.No.73 of 2018

Sessions Judge, Mahila Court, Chennai. The appellant is acquitted from all charges. Bail bond if any executed shall stand cancelled. Fine amount if any paid shall be refunded.

19.11.2025

Index : Yes/No  
Speaking Order/Non Speaking Order  
Neutral Citation: Yes/No  
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Crl.A.No.73 of 2018

To

- 1.The Sessions Judge,  
Mahila Court,  
Chennai.
- 2.The Inspector of Police,  
W16 All Women Police Station,  
Pulianthope,  
Chennai – 600 012.
- 3.The Public Prosecutor,  
High Court, Madras.



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M.NIRMAL KUMAR, J.

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