



CrI.R.C.No.674 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.03.2025

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.R.C.No.674 of 2023

Mr.R.Rajasekar, S/o Ramalingam

.. Petitioner

Vs.

The State Rep. by Inspector of Police,
Kattumannarkoil Police Station,
Kattumannarkoil, Chidambaram District.

.. Respondent

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. against the judgment passed by the 2nd Additional District and Sessions Court, Chidambaram in CrI.A.No.55 of 2022, dated 23.02.2023, by confirming the judgment passed by the District Munsif-cum-Judicial Magistrate, Kattumannarkoil in C.C.No.124 of 2016, dated 10.11.2022.

For petitioner : Mr.S.Nagarajan

For respondent : Mr.S.Sugendran, Addl.P.P.

ORDER

This revision petition is filed by the accused, challenging the confirmation of the judgment of conviction passed by the appellate Court, i.e. 2nd Additional District and Sessions Court, Chidambaram in CrI.A.No.55 of 2022, dated 23.02.2023, confirming the judgment passed by the trial Court, i.e. District

Page No.1/7



CrI.R.C.No.674 of 2023

Munsif-cum-Judicial Magistrate, Kattumannarkoil in C.C.No.124 of 2016, dated

10.11.2022.

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2. The trial Court, after trial, convicted the petitioner for the offences under Sections 294(b) and 323 IPC each to pay fine amount of Rs.1,000/-, in default, to undergo one week simple imprisonment and for the offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, to undergo six months rigorous imprisonment and to pay Rs.10,000/- as fine amount, in default, to undergo one month simple imprisonment. The appellate Court confirmed the above conviction and sentence passed by the trial Court and dismissed the appeal, against which, the present revision petition is filed by the petitioner/accused.

3. Learned counsel for the petitioner contended as follows:

The contradictions between the evidence of the prosecution witnesses and their statement recorded by the investigating officer, have not been considered by the Courts below. P.W.2 (victim) admitted that she did not give any statement before the Police or in the chief examination as to which hand of her got injury. There is no eye-witness at all in this case. P.W.3 admitted that he was not present in the scene of occurrence. P.W.6 Doctor admitted that the victim got only simple injury. P.W.4 admitted in his cross-examination that without knowing the contents, he signed in the observation mahazar (Ex.P-2).

Page No.2/7



CrI.R.C.No.674 of 2023

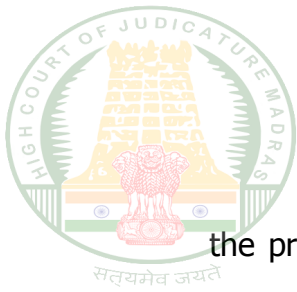
P.W.4 admitted that the Police did not enquire and simply asked him to sign in

Ex.P-2. P.W.5 also admitted in the chief examination that he was not aware of the contents of Ex.P-2. P.W.6 Doctor admitted in her chief examination that P.W.2 was admitted as an out-patient and wound certificate Ex.P.4 was issued, showing the injury as simple in nature. P.W.6 also stated that there is a chance to sustain the injury when the bangles may broke at the time of falling down. The motive of the alleged offences is not proved by the prosecution and none of the witnesses had stated in their deposition about the motive. There is no averment in the complaint as to why there occasioned a delay of one day in lodging the complaint. Admittedly, all the individual witnesses are the blood relatives of the de-facto complainant. P.W.2's evidence is not corroborated by the evidence of P.Ws.3 and 4.

4. The trial Court, upon considering the oral and documentary evidence, convicted the revision petitioner, as stated above, against which, an appeal was also filed, which was also dismissed, against which, the present revision petition is filed by the petitioner/accused.

5. The charge framed under Section 294(b) IPC has not been substantiated by prosecution through any of the witness, and except P.W.2, there is no other eye-witness at the time of the occurrence. Even though the victim was examined as P.W.2, she has not spoken about the filthy language in

Page No.3/7



the presence of third party or in the public view or any day in the presence of third parties or public.

6. It is useful to quote Section 294(b) IPC as follows:

Section 294. Obscene acts and songs.— Whoever, to the annoyance of others—

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."

7. In the above circumstances, the conviction and sentence imposed by the trial Court for the offence under Section 294(b) IPC, are perverse and the same are liable to be set aside. Accordingly, the same are set aside.

8. Further, as far as Section 323 IPC is concerned, the victim has clearly spoken about the involvement of the petitioner and the same was also supported by medical evidence and therefore, the conviction and sentence imposed on the revision petitioner under Section 323 IPC is hereby confirmed.

9. Considering the facts and circumstances of the case, the conviction imposed for the offence under Section 506 (Part-2) IPC is also hereby confirmed.

10. As far as the conviction and sentence imposed on the revision



Crl.R.C.No.674 of 2023

petitioner for the other offence is concerned, it is under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act and the de-facto complainant has clearly spoken and P.Ws.1 and 3 though are not the eye-witnesses, but immediately soon after the occurrence, they have also reached the place of occurrence. Further, P.W.1 has given the complaint, who is none other than the mother of the victim.

11. Therefore, the conviction imposed on the revision petitioner in respect of the offence under Section 323 IPC is modified with direction to undergo three months simple imprisonment.

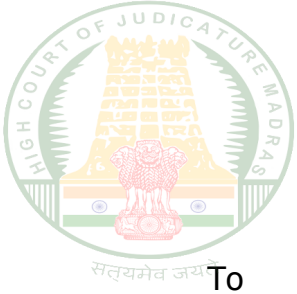
12. Further, the conviction imposed on the revision petitioner under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, is confirmed.

13. Regarding the other aspects of the judgment of the trial Court and the appellate Court, the same are unaltered. The revision petition is accordingly dismissed with the above modification.

25.03.2025

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Page No.5/7



CrI.R.C.No.674 of 2023

To

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1. The District Munsif and Judicial Magistrate, Kattumannarkoil.
2. The Second Additional District and Sessions Judge, Chidambaram.
3. The Section Officer, Criminal Section (Records Wing), High Court, Madras.
4. The Inspector of Police, Kattumannarkoil Police Station,
Kattumannarkoil, Chidambaram District.
5. The Public Prosecutor, High Court, Madras.



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Crl.R.C.No.674 of 2023

P.VELMURUGAN, J

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Crl.R.C.No.674 of 2023

25.03.2025

Page No.7/7