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Crl.A No.667 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 21.08.2025

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.A No.667 of 2023

Shanmugam

... Appellant

..Vs.

The State Rep. by
The Inspector of Police
All Women Police Station-Central
Coimbatore
Crime No.3 of 2019

... Respondent

Prayer: This Criminal Appeal is filed under Section 374 (2) of Cr.P.C., to set aside the judgment and order of conviction and sentence passed by the learned Sessions Judge, Magalir Neethimandram, (Mahila Court), Coimbatore dated 26.10.2022 made in Sessions Case No.187 of 2019 and set the appellant at liberty.

For Appellant : Mr.V.S.Mahakrishnan
for Mr.P.Srinivasan
For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

ORDER

This appeal has been preferred as against the judgment passed in S.C No.187 of 2019 dated 26.10.2022 by the learned Sessions



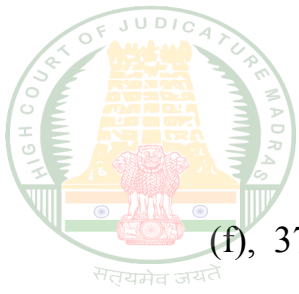
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Judge, Mahalir Neethimandram, Mahila Court, Coimbatore, thereby

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convicting the appellant for the offence punishable under Sections 376(2)(f), 376(2)(n) and 506(i) of IPC and sentencing him to undergo Rigorous imprisonment for a period of 10 years each and to pay a fine of Rs.500/- each, in default, to undergo 3 months simple imprisonment each for the offences under Section 376(2)(f) and 376(2)(n) of IPC and also sentencing him to undergo rigorous imprisonment for a period of one year for the offence under Section 506(i) IPC.

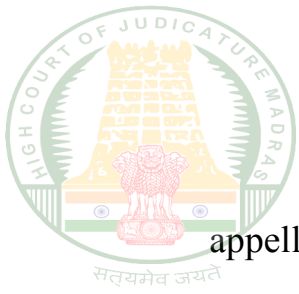
2. It is the case of the prosecution that the victim is the daughter of the accused. The victim was born on 21.11.1999. While being so, on 02/03.04.2019 at 4.00 a.m, when the victim was sleeping along with her family members, the accused came near her and tried to cover her body with a bed-sheet and thereafter, he had committed sexual assault on her. This has happened four or five times. He also threatened her that if she cries, he will kill her. After the said occurrence, she got pregnant and went to the hospital for abortion and her pregnancy got aborted. Thereafter, on 24.07.2019, she lodged a complaint before the respondent. On the said complaint, the respondent registered a FIR in Crime No.3 of 2019 for the offences punishable under Sections 376 (2)



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(f), 376(2)(n) and 506(i) IPC. After completion of investigation, the respondent filed a final report and the same was taken cognizance by the trial Court. In order to bring home the charges, the prosecution had examined PW1 to PW15 and marked Ex.P1 to P13. On the side of the accused, he had examined DW1 and marked Ex.D1 to D9. On perusal of the oral and documentary evidence, the trial Court found the accused guilty for the offence punishable under Sections 376(2)(f), 376((2)(n) and 506(i) of IPC. He was sentenced to undergo 10 years rigorous imprisonment each and to pay a fine of Rs.500/- each, in default to undergo 3 months simple imprisonment each for the offence under Sections 376(2)(f), 376((2)(n) and to undergo one year rigorous imprisonment for the offence under Section 506(i) of IPC. Aggrieved by the same, the present appeal has been filed.

3. The learned counsel for the appellant would submit that the prosecution has failed to prove the charges beyond any reasonable doubt. The complaint itself was lodged with the delay of 3-1/2 months. There is absolutely no reason for the delay in lodging the complaint. The appellant marked Ex.D1 to D9. All the documents show that the victim had already fell in love with one Saravanan and it was warned by the



appellant herein. In fact, she fell in love and she had physical relationship with him. Therefore, she got pregnant and went to the hospital for abortion. Even before the doctor who aborted her pregnancy, the victim or her mother, who took her to the doctor did not even whisper about the appellant's involvement in her pregnancy. Without considering the above facts and circumstances, the trial Court mechanically convicted the appellant.

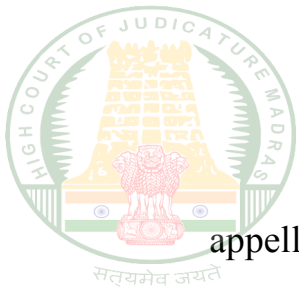
4. Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that the victim was examined as PW1 and her mother was examined as PW3. Both of them had categorically deposed that the appellant had committed rape on his own daughter due to which, she got pregnant. No daughter would lodge a false complaint as against her own father. The doctor, who treated the victim's pregnancy also categorically deposed that the victim girl got pregnant and subsequently, it was aborted. Therefore, the prosecution had categorically proved the charges and the trial Court had rightly convicted the appellant and it does not warrant any interference by this Court.



5. Heard the learned counsel on either side and perused the material available on record.

6. The victim is none other than the daughter of the appellant. She was examined as PW1. Even according to PW1, the alleged occurrence took place on 02.04.2019. But the complaint was lodged only on 24.07.2019. Further, the alleged rape happened only on 02.04.2019. Though the victim deposed that three or four times, the same thing had happened, the victim did not even whisper about the date on which such occurrences took place. After the month of July, she was vomiting and she was subjected for medical treatment, where she was found that she got pregnant and thereafter, with the advise of the doctor, her pregnancy was aborted.

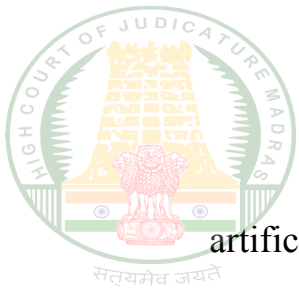
7. It is curious to note that the victim did not even whisper about the said occurrence even to her mother. The victim and her mother did not even inform to the doctor, who aborted her pregnancy that which person was the reason for her pregnancy. The doctor, who conducted abortion has adduced evidence as PW8. On perusal of her deposition, it was revealed that the victim or her mother did not even whisper about the



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appellant's overtact for the reason of her pregnancy. Even after the alleged occurrence took place on 02.04.2019, the victim was staying along with her father and mother. She did not even inform to her mother or any other relatives. She never refused to stay along with the appellant in the same house. After noticing the pregnancy, the victim was brought before PW8 on 18.06.2019. On that day, the pregnancy was confirmed and in order to abort the pregnancy, she was admitted in the hospital on 28.06.2019. On 29.06.2019, the abortion was done and the victim was discharged from the hospital on 02.07.2019. However, even thereafter, the victim did not even whisper about the reason for her pregnancy to her mother. Only on 24.07.2019, she disclosed the reason for her pregnancy to her mother and on the same day, the victim herself lodged a complaint before the respondent alleging that her father had committed rape on her. Therefore, the entire case of the prosecution is an unbelievable one. The entire allegations are artificial in nature.

8. On perusal of PW1, it was revealed that when all the family members were sleeping in the same room, the appellant had committed rape on her. In the same room, the victim, her mother and four other children were sleeping. Therefore, the entire allegations are



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artificial in nature and in order to wreak vengeance against the appellant, a false case has been foisted against him. It is also evident that the victim had fell in love with one Saravanan, while she was doing her nursing course and it was warned by the appellant herein. In fact, after six months, she was compelled to discontinue her course by the appellant. She was studying in her house. In order to prove the same, appellant marked Ex.D1 and D2. On the complaint lodged by the appellant before the Inspector of Police, Rathinapuri Police Station, Coimbatore, the victim submitted a letter that she was not kidnapped by anybody and she herself went to her maternal aunt's house. Further, Ex.D2 would clearly reveal that she fell in love with one Saravanan and it was warned by the appellant herein. Therefore, she discontinued her nursing course and she also fought with her father namely, the appellant herein. On the complaint. the appellant was also issued a C.S.R No.158 of 2018 on the file of the Inspector of Police, Rathinapuri Police Station, Coimbatore. The victim girl was produced before the police station and she deposed that she went to her friend one Ezhil's house, since she had quarreled with the appellant for the reason that she fell in love with one Saravanan and it was warned by the appellant herein.



9. Therefore, it is crystal clear that in order to wreak vengeance as against the appellant for the reason that he refused to agree to the love affair of the victim with one Saravanan, a false complaint has been foisted as against the appellant, as if he committed rape on her. Though the delay in lodgment of complaint is not a material in the sexual offences, in overall circumstances, the case on hand revealed that a false complaint has been foisted as against the appellant after 3-1/2 months. Therefore, the delay is significant in this case to disbelieve the case of the prosecution. In fact, the victim did not even whisper to her friend about such occurrence. If a father had committed such an offence, it is very serious and no daughter could have kept mum without informing to her mother. The prosecution has completely failed to prove any charge and the complaint itself is a false one.

10. In criminal jurisprudence, the burden is always on the prosecution to prove its case beyond reasonable doubt. When two views are possible and the one favourable to the accused is equally plausible, the benefit of doubt must necessarily go to the accused. In the present case, the prosecution has failed to discharge its burden convincingly, and the trial Court failed to properly appreciate the infirmities in the



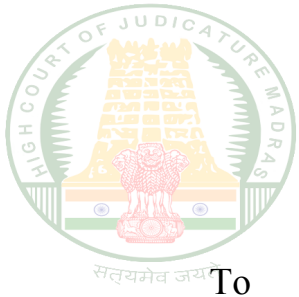
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prosecution case. Therefore, the conviction and sentence awarded by the trial Court in respect of all the charges against the appellant cannot be sustained and are liable to be set aside.

11. Accordingly, this Criminal Appeal is allowed and the conviction and sentence imposed by the Sessions Judge, Magalir Neethimandram (Mahila Court), Coimbatore, in SC No.187 of 2019 dated 26.10.2022 for the offences under Sections 376(2)(f), 376(2)(n) and 506(i) IPC are hereby set aside. The appellant is acquitted of all charges in SC No.187 of 2019 on the file of the learned Sessions Judge, Magalir Neethimandram (Mahila Court), Coimbatore. Fine amount, if any paid, shall be refunded to the appellant forthwith. Bail bonds, if any executed, shall stand cancelled.

21.08.2025

Index:Yes/No
Internet:Yes/No
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To
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1.The Sessions Judge, Magalir Neethimandram, (Mahila Court),
Coimbatore

2.The Inspector of Police
All Women Police Station-Central
Coimbatore

3.The Public Prosecutor, High Court of Madras.



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