



CrI.R.C.No.841 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2025

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.841 of 2021
and CrI.M.P.Nos.12079 & 12082 of 2021

Sandeep Sharma

... Petitioner

Vs.

The State represented by
The Inspector of Police,
Central Railway Police Station,
Central, Chennai – 600 003.
Crime No.242 of 2014.

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w. 401 of Code of Criminal Procedure to set aside conviction and sentence made in C.A.No.55 of 2020 dated 03.09.2021 on the file of the Principal Sessions Judge, Chennai in confirming the judgment made in C.C.No.3081 of 2014 dated 13.02.2020 on the file of the XVI Metropolitan Magistrate, George Town, Chennai.



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For Petitioner : Mr.Naveen Kumar Murthi
for Mr.Mahamani

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

ORDER

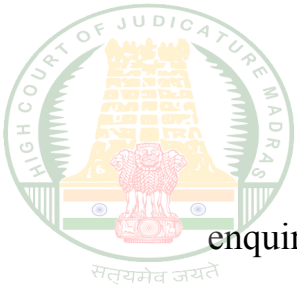
The petitioner/accused was convicted by the learned XVI Metropolitan Magistrate, George Town, Chennai in C.C.No.3081 of 2014 by judgment dated 13.02.2020 and sentenced to undergo one month simple imprisonment and to pay a fine of Rs.10,000/-, in default to undergo one month simple imprisonment for the offence under Section 4 of Tamil Nadu Prohibition of Women Harassment Act. Aggrieved against the same, the petitioner preferred an appeal before the Sessions Court in C.A.No.55 of 2020. The learned Principal Sessions Judge, Chennai dismissed the appeal by judgment dated 03.09.2021 confirming the conviction and sentence of the Trial Court. Against which, the present revision is filed.

2.The case against the petitioner is that the defacto complainant/P.W.1 lodged a complaint stating that on 28.03.2014 she travelled in Tamil Nadu Express from Chennai to New Delhi to attend a examination in AIIMS at



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New Delhi, she purchased an open ticket [Ticket No.492449803] and was searching for a vacant seat in the reserved compartment. Thereafter, she approached the Travelling Ticket Examiner [TTE], the petitioner/accused herein for accommodation, who advised her to get into Coach No.S9 and the train started at 10.00 p.m. After finishing his ticket checking work, the petitioner directed the defacto complainant to wait at Berth No.10 in Coach No.S8 and later she was asked to sit in berth No.32. When the defacto complainant shifted her luggage to berth No.32, the petitioner/accused called the defacto complainant in her Mobile No.9543006787 from his mobile No.8008745285 on the pretext of allotting a berth. When the defacto complainant went to brush her teeth and wash her face, the petitioner approached her in plain clothes with yellow t-shirt, introduced himself by his name and he is a Swimming Champion aged about 22 years. When the defacto complainant asked for the additional charges to be paid, the petitioner called her to come near the toilet, forced her to the toilet, he shut her mouth in one hand, pulled her inside with another hand and attempted to embrace her and zipped out his private parts. The defacto complainant punched him on his face and shouted at him, the co-passenger Rajaram, a retired Police Officer who was travelling along with his wife and daughter



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enquired the defacto complainant, she informed the harassment but not the full story. There were other two passengers, namely, Ganesh and Prasanna from Tamil Nadu Police, became suspicious on the frequent visit of TTE near the defacto complainant's seat and chatting with her. Later, the petitioner alighted at Vijayawada Station and thereafter, the train proceeded to Delhi. The defacto complainant stayed with the said Rajaram and his family at Delhi, attended the examination and later returned to Chennai on 02.04.2014 and left to her native at Arupukkottai on the same day. The defacto complainant informed to her senior about the incident, who advised her to lodge a complaint and thereafter, the above complaint lodged.

3. During trial, P.W.1 to P.W.3 examined, Ex.P1, Ex.P2, Ex.C1 and Ex.C2 marked. The trial Court on conclusion of trial found the petitioner guilty and convicted him as stated above. The Lower Appellate Court confirmed the conviction and sentence imposed by the Trial Court.

4. The contention of the learned counsel for the petitioner is that the defacto complainant travelled with an open ticket to Delhi in a reserved



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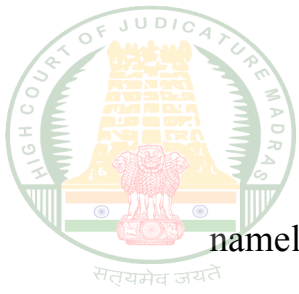
compartment and hence, the petitioner warned her and forced her to get down in the next Station. She pleaded for a reserved seat and she was asked to sit in a vacant berth and penalty was collected. The defacto complainant, a Law Student raised objection for imposing penalty, she abused and threatened the petitioner and a false case has been foisted against the petitioner. Admittedly, the occurrence is said to have taken place on 28.03.2014 but the complaint was lodged only on 08.04.2014. He would submit that after the petitioner got alighted at Vijayawada, another TTE took charge from Vijayawada but the defacto complainant not complained to the new TTE about the incident either in the train or after getting down at New Delhi. Further, she confirms she stayed with the co-passenger Rajaram and his family at Delhi, it was the daughter of Rajaram who accompanied her to AIIMS Centre and other places in Delhi but the defacto complainant not whispered anything about the incident to the said Rajaram's family but gives an explanation that on the advise of her mother and senior, she lodged the complaint. Further, the defacto complainant not stated anything in the complaint about the petitioner forcing her to the toilet and exhibiting his private parts. The Trial Court finding that the defacto complainant had given an exaggerated version disbelieved her evidence on this aspect. He



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would further submit that the Trial Court when disbelieving the evidence of P.W.1/victim that she had given an exaggerated version ought to have disbelieved her in total. Further the defacto complainant not thought fit to make any complaint from 28.03.2014 till 08.04.2014 and in her complaint, the defacto complainant also stated, when she was travelling in a bus on 27.03.2014 during midnight, she suffered humiliation of similar nature.

5.The learned counsel for the petitioner further submitted that in this case, one Suresh who was examined as P.W.2 is said to have travelled in the same compartment on the same day and the petitioner being a TTE asked him to sit in a corner since he was travelling with an open ticket in a reserved compartment. P.W.2 is doing suitcase repair work next to the Railway Police Station and identifies the petitioner. Finding that P.W.2 is in the nature of stock witness, his evidence was not accepted by the Trial Court. P.W.3/Investigating Officer states that initially complaint was forwarded to him by the Inspector of Police, thereafter he took up the investigation, recorded the statement of witnesses and filed a final report. P.W.3 fairly submitted that in this case he had not collected the travel details of the co-passengers, namely, Rajaram and his family, two Police Personnels



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namely Ganesh and Prasanna. Further, he had not collected the call details of the petitioner and the defacto complainant to confirm that the petitioner called the defacto complainant over phone and forced her to come near the toilet. The Trial Court finding that the investigation not conducted in a proper manner and no materials collected, directed the respondent police to conduct further investigation under Section 173(8) Cr.P.C. by order dated 19.12.2019. Thereafter, the respondent issued summons to the defacto complainant/P.W.1 on 07.01.2020. She appeared on 23.01.2020 and informed that she had already given statement earlier which is sufficient and she has nothing to add. The respondent police written a letter to the Senior Divisional Commercial Manager, Southern Railways seeking for travel details of Ganesh Murugan, Rajamani, Prasanakumar and Shanthi. The Divisional Commercial Manager gave a report that backup data upto 3½ years will be available and no data can be retrieved beyond that period. Hence no details furnished.

6.The learned counsel further submitted that P.W.1 clearly stated that during her stay in Delhi, she stayed with Rajaram and his family, his daughter accompanied the defacto complainant throughout her stay at Delhi.



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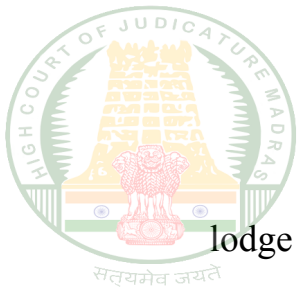
In such circumstances, finding out the address of the said Rajaram and the details of his daughter is not a difficult task. Further, for the summons dated 07.01.2020, the defacto complainant makes an endorsement, that she is pursuing her LLM Human Rights and Duties Education at School of Excellence in Law. In the year 2014 the defacto complainant claims that she is a Law student and even after six years, she claim that she is a Law student. She has been giving different address at different point of time which is of concern and the credibility of the defacto complainant is doubtful. The defacto complainant to brook vengeance for the alleged humiliation caused due to the petitioner questioning her for travelling with an open ticket in a reserved compartment and imposing penalty made her to lodge a false complaint. Further, except for the evidence of P.W.1 there is no other corroborative material in this case. The Trial Court having disbelieved one part of P.W.1's evidence ought to have totally disbelieved P.W.1. The Trial Court found P.W.2's evidence totally unbelievable and he is in the nature of stock witness. The investigation of P.W.3 is not proper and hence ought to have acquitted the petitioner from all charges. The Lower Appellate Court without independent assessment and appreciation had mechanically dismissed the appeal. Hence, prayed for acquittal.



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WEB COPY 7.The learned Government Advocate (Crl. Side) filed his counter and

submitted that the petitioner/accused is a Travelling Ticket Examiner. On 28.03.2014 he was on duty for Coach Nos.S8, S9 and S10 in Tamil Nadu Express. The defacto complainant purchased open ticket, searched for accommodation in the reserved compartment and she approached the petitioner for allotment of a berth in the reserved compartment. The defacto complainant directed her to enter Coach No.S9 and later she was asked to sit at berth No.32 in Coach No.S8, at that time, the petitioner got her mobile number. Later, the petitioner called the defacto complainant to collect the amount, took her near the toilet and attempted to embrace her. The defacto complainant punched him on his face and shouted at him. Thereafter, when enquired by the co-passenger Rajaram, she informed the harassment caused by the petitioner and not giving the receipt for allotting the berth. A co-passenger Rajaram shouted at the petitioner and asked him to give her the receipt. The defacto complainant not disclosed the misbehaviour of the petitioner felt if revealed would only further embarrass her and hence, she had not disclosed the entire facts. After coming to her native, she disclosed to her mother about the incident and later to her Senior, who advised her to



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lodge a complaint. Hence, she lodged a complaint on 08.04.2014. This is a natural behaviour of a humiliated women. On receipt of the complaint, FIR registered, investigation carried out by P.W.3, who examined P.W.2/Co-passenger who travelled in the same compartment. On completion of investigation, charge sheet filed. The defacto complainant was initially hesitant to co-operate with the investigation and she was reluctant to give all details which caused some delay. During the trial, the Trial Court found that the co-passengers not examined despite their names found in the complaint and ordered further investigation, the co-passenger details could not be collected due to passage of time. Hence with the available evidence of P.W.1 to P.W.3, Ex.P1, Ex.P2, Ex.C1 and Ex.C2, the Trial Court convicted the petitioner, confirmed by the Lower Appellate Court. Hence, prayed for dismissal of the petition.

8.Considering the submissions made and on perusal of the materials, it is seen that in this case the petitioner is a Travelling Ticket Examiner, who was on duty in Tamil Nadu Express on 28.03.2014. P.W.1/defacto complainant admits that she travelled with an open ticket to New Delhi and she was in search for a berth. The petitioner is said to have initially guided



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her to Coach No.S9 and later she was asked to sit in berth No.32 in Coach No.S8 where one Rajaram, a retired Police Officer travelled along with his family and two Police Personnels also travelled. The petitioner is said to have not collected additional charges immediately and thereafter for collecting additional charges, the defacto complainant called P.W.1 near the toilet, at that time, the petitioner is said to have misbehaved with her. The Trial Court disbelieved one portion of the evidence of P.W.1 found to be an exaggerated version as though the petitioner exposed his private parts to her. The other version of the petitioner is that the petitioner closed the defacto complainant's mouth by one hand and pulled her inside the toilet by other hand is also highly doubtful. The defacto complainant after the incident had gone back to her berth and complained about not giving receipt for additional charges collected and the co-passenger Rajaram, who is said to have shouted at the petitioner and asked him to issue the receipt immediately and nothing more. Further, the defacto complainant stated that the said Rajaram and his daughter became friendly with her and Rajaram's daughter accompanied her in Delhi. In such circumstances, it is natural that the defacto complainant to have revealed the misbehaviour and humiliation at the hands of the petitioner but strangely she kept quite till 08.04.2014 and



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later, she lodged a complaint. Apart from it, the petitioner is said to have alighted in Vijayawada station, thereafter another TTE took charge and the train travels for more than 24 hours to reach Delhi but during this period the defacto complainant not disclosed about the incident to any of the co-passengers or to the railway officials. In this case the co-passengers are Police Personnels, hence it would have given confidence and strength for the defacto complainant to lodge a complaint or disclose the fact but strangely the defacto complainant not disclosed the incident till 08.04.2014 which causes doubt in the defacto complainant's version about the incident. The reason given by her that it would affect her exams on 30.03.2014 may not be proper. In this case the travel ticket of neither the defacto complainant nor the co-passengers collected. Further, the call details of the petitioner and the defacto complainant would give a link to the fact that the petitioner had called her often, caused harassment and also asked her to come near toilet. But in this case, no such steps taken.. The Trial Court ordered further investigation, thereafter to nothing could be collected. It is not in dispute that the defacto complainant travelled with an open ticket and the petitioner being a TTE naturally could have questioned her which would have caused her embarrassment that too in front of others which can be a reason for the



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complaint. Further, the only evidence is that of P.W.1 and her evidence from the stage of complaint, her statement during investigation and before the Court are with exaggeration, does not inspire confidence to act on the sole territory of the defacto complainant, hence in the absence of any corroborative evidence and materials, it cannot be taken as proved. Hence, this Court finds the conviction and sentence imposed by the Trial Court, confirmed by the Lower Appellate Court both not sustainable.

9.Accordingly, the judgment rendered by the learned XVI Metropolitan Magistrate, George Town, Chennai in C.C.No.3081 of 2014 dated 13.02.2020, confirmed by the learned Principal Sessions Judge, Chennai in C.A.No.55 of 2020 dated 03.09.2021 both set aside. The petitioner is acquitted from all the charges levelled against him.

10.In the result, the Criminal Revision Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

12.02.2025

Index:Yes/No
Speaking Order/Non-Speaking Order



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Neutral Citation: Yes/No

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To

- 1.The Inspector of Police,
Central Railway Police Station,
Central, Chennai – 600 003.
- 2.The Principal Sessions Judge,
Chennai.
- 3.The XVI Metropolitan Magistrate,
George Town,
Chennai.
- 4.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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