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Crl.A.No.594 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2025

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.594 of 2021

Arunkumar

... Appellant

Vs.

State by
The Inspector of Police,
All Women Police Station,
Sethiyathope, Cuddalore District.
(Crime No.4 of 2019)

... Respondent

Prayer: Criminal Appeal filed under Section 374(2) of Cr.P.C., to admit the appeal and to set aside the conviction and sentence imposed on the appellant by judgment dated 29.07.2021 passed in S.C.No.242 of 2019 on the file of the Sessions Judge, Mahila Court, Cuddalore.

For Appellant : Mr.R.Sankarasubbu

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)



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JUDGMENT

This Criminal Appeal is filed to set aside the impugned judgment in S.C.No.242 of 2019 dated 29.07.2021 on the file of the learned Sessions Judge, Mahila Court, Cuddalore.

2.The appellant/accused in S.C.No.242 of 2019 was convicted by the Trial Court by judgment dated 29.07.2021 and sentenced him to undergo ten years rigorous imprisonment and to pay a fine of Rs.30,000/-, in default to undergo two years simple imprisonment for the offence under Section 376(1) IPC, to undergo one year rigorous imprisonment and to pay a fine of Rs.10,000/-, in default to undergo three months simple imprisonment for the offence under Section 417 IPC and to undergo five years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default to undergo one year simple imprisonment for the offence under Section 506(ii) IPC.

3.The case of the prosecution is that on 27.02.2019 the defacto complainant/victim lodged a complaint to PW11, based on which, a case in Crime No.4 of 2019 for the offense under sections 417, 376, and 506(i) IPC



registered and FIR/Ex.P9 registered. Thereafter, PW12/Inspector of Police,

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All Women Police Station, took up further investigation, visited the scene of occurrence, prepared observation mahazar and rough sketch in the presence of PW5, examined the victim/PW1, her mother/PW2, sister/PW3 and the neighbor/PW4. At that time, the victim informed that the appellant was studying M.Sc in Annamalai University and the victim was working in a private firm, both used to travel in the same bus and became friendly. On 23.07.2017, the appellant informed the victim that he was in love with her and he will marry her. The victim refused and the appellant informed her that if she is not accepting his love, he would end his life. The victim took pity and started loving him. Both of them were in love with each other and developed close relationship. Further, the victim and the appellant used to meet at the victim's house whenever she was alone. The victim's mother and elder sister were doing agricultural coolie work. The appellant and the victim used to go to parks and hotels regularly. The appellant presented a watch and a ring to the victim. The appellant informed the victim that she had to study further and get a degree, otherwise the appellant's family will not accept their love and for their marriage. The victim joined Mutlur Arts College, studied B.Sc (Physics) in the year 2018. On 16.01.2019, when the



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mother and sister of the victim were not at home, the victim called the appellant at 2:30 p.m. to come over and they were talking to each other. At that time, the appellant promised that he would marry her and forced her to have physical relationship. Though she resisted, he overpowered her and had physical relationship with her. The victim got shattered and she was crying. At about 4.00 p.m. PW2 and PW3, the mother and sister of the victim, came home and saw the victim and the appellant together. The mother of the victim, PW2 locked the door and went to inform the appellant's parents, who live four houses away from the victim's house. The appellant fell at the feet of PW3/sister of the victim and promised he would marry the victim after his sister's marriage in February 2019 and he was let go. The mother of the victim/PW2 found the appellant let off and scolded PW1 and PW3. On 17.01.2019, the victim met the appellant and asked for marriage, but he refused and hence, the victim consumed rat poison. PW2/mother of the victim, took her to Government Hospital, Chidambaram where PW9/Casualty Doctor treated her and recorded in Accident Register/Ex.P7. Thereafter, she was referred to Rajah Muthiah Medical College and Hospital, Chidambaram, where PW7/Doctor gave treatment and issued Accident Register/Ex.P5. From the hospital, information sent to the Police.



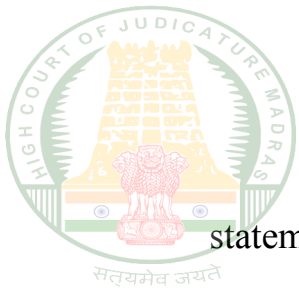
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PW10 went to Rajah Muthiah Medical College and Hospital, recorded the statement of the victim and registered Ex.P8/CSR.No.23 of 2019. Since the victim requested that she is only interested in her marriage with the appellant and the appellant's family members opposing the same and wanted to join the appellant and no coercive action to be taken. The victim, after one week of treatment as inpatient, got discharged from the Hospital. Thereafter, the victim's parents again went to the appellant's house for marriage proposal, the appellant refused to marry and threatened the victim and her mother. Hence, a complaint lodged on 27.02.2019 and FIR registered. The appellant/accused was arrested on the same day. PW6/Doctor at Government Hospital, Cuddalore, examined the accused and issued Potency report/Ex.P4. The victim was produced for medical examination before PW8/Doctor on 02.03.2019, she also gave a 164 statement/Ex.P2 and thereafter sections altered by Alteration report/Ex.P11. Thereafter, on collecting the documents and medical records, charge sheet filed. During trial, PW1 to PW12 examined and Ex.P1 to Ex.P11 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 appellant/accused as stated above.



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4.The contention of the learned counsel for the appellant is that it is admitted by the victim that the Appellant and the victim were in love with each other from the year 2017, both regularly travelling in the same bus. The appellant was studying M.Sc Physics and the victim going for a job. Thereafter, their friendship blossomed into a love affair. They exchanged their contact numbers and were in regular touch. When the victim wanted to join a degree course, she took B.Sc Physics and took guidance from the appellant who was studying M.Sc. Physics. Their love affair became thick and they moved intimately, went to parks, restaurants and other places. The appellant presented a watch and a ring to the victim. The relationship became so close that the victim was constantly calling the appellant whenever she was alone at home to spend time together. Even on 16.01.2019 the victim only called the appellant to her home and both were together, later they had physical relationship knowingly and consciously, but later projected physical relationship was forcible and on the false promise of marriage, even today, the Appellant is unmarried and he is ready to marry the victim and it is the victim who is not agreeing for the marriage. The victim, on her own admission in the complaint, as well as in her 164



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statement and during the evidence, admits love relationship and the physical relationship on several occasions. In the medical record/Ex.P6, it is recorded that the victim admits that on more than 20 occasions, they have been together having physical relationship. The appellant and the victim both educated persons and the victim admits that she had a conscious relationship with the appellant knowing the consequences moved with the appellant intimately. Now, she cannot make a turnaround against the Appellant. PW2 and PW3 are the mother and sister of the victim. Their evidence is with contradictions, making allegations as though on 16.01.2019 the appellant was kept under lock and thereafter he fell on the feet of PW3 and escaped from the victim's house. Likewise, the appellant's refusal for marriage and the appellant and his sister coming to the victim's house and threatened. Further as regards appellant's sister gave rat poison and asked the victim to end her life. Their evidence is with complete contradictions which is admitted by the Investigating Officer/PW12.

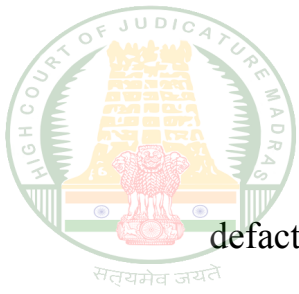
5.The learned counsel for the appellant further submitted that PW5/witness to the observation mahazar admits he does not know what is written in Ex.P3. PW9 and PW7 confirm that on 17.01.2019 the victim was



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taken to the Government Hospital at Chidambaram and thereafter to Rajah Muthiah Medical College and Hospital, Chidambaram, wherein she took treatment for one week as inpatient till 23.01.2019. PW8/Doctor who examined the victim, confirms by medical reports that there was physical relationship on several occasions. Thus, it is confirmed that the appellant and the victim were in love with each other, they had a conscious relationship, initially both decided to marry but for some reason, marriage did not take place, now both are unmarried and the appellant is ready to marry the victim. The appellant is first generation postgraduate from his family. Both the appellant and the victim have similar social status and live in the same area, with four houses between them. The Appellant is now employed in a private factory Asahi India Glass Limited and he is the sole breadwinner for his family. The appellant is preparing for the TET exam to get Government employment which is the dream of the appellant. The learned counsel for the appellant produced Statement of marks, Transfer cum conduct certificate, Salary certificate and ID proof.

6.The learned Government Advocate (CrI. Side) opposed the appellant's contention and submitted that in this case, the victim is the



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defacto complainant. The victim's father died some years before and victim's mother brought up the victim, her sister and her younger brother with her hard work, she is a agricultural coolie. After completing school, the victim got admission in an Engineering College in Salem, later she discontinued her studies and employed in a private firm. She used to travel in a particular bus regularly and the appellant also travelled in the same bus. Both the appellant and the victim hail from the same place. The appellant became friendly and developed a relationship with her got attracted and developed a love relationship. The appellant asked the victim to join a college and complete her degree, so that the appellant's parents will not object to their marriage. Believing this, she joined B.Sc Physics in Mutlur Arts Science College. The appellant guided the victim during her admission and their bondage thickened and both had intimate relationship. Taking advantage of this relationship and on the false promise of marriage, the appellant on 16.01.2019, forced victim and had physical relationship despite her resistance. The victim was shattered by the act of the appellant and she started weeping. PW2 and PW3, the mother and sister of the victim, came back home at 4:00 p.m., saw the appellant and victim together and sensing the appellant had ravished the victim, PW2/mother locked the house and



confined the appellant in the house and went to call the appellant's parents.

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In the meanwhile, the appellant pleaded and escaped from the house. On 17.01.2019, the victim met the appellant and asked for assurance for marriage, but the appellant refused. Getting dejected, she consumed rat poison. The victim was taken to the Government Hospital, Chidambaram and later to Rajah Muthiah Medical College and Hospital, Chidambaram, where she was treated as inpatient. The victim consuming poison recorded in Ex.P8 by PW10.SSI. Since the victim and her mother were still under the hope that the appellant will marry the victim, they had not further pursued the complaint and the CSR was kept pending. After the marriage of the appellant's sister, when the marriage proposal was again mooted by the victim and her mother, the appellant and his sister not only refused, but also abused and threatened the victim and her mother. Thereafter, complaint lodged on 27.02.2019 and PW11 received the complaint. PW12 took up investigation, recorded the statement of the victim, her mother and sister, who confirmed the rape committed by the appellant on 16.01.2019. The victim disclosed the fact to PW8 who examined and recorded in medical report/Ex.P6. The victim gave a 164 statement to the learned Magistrate, which is marked as Ex.P2. The accused was arrested in this case. In this



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case, the victim/PW1, her mother/PW2, sister/PW3 and the medical evidence and reports confirm that the appellant committed rape on the victim. The appellant now makes a turnaround fearing for his conviction projects as though appellant still serious about the relationship with the victim and promise of marriage. The victim hurt so badly and she had given a statement that she is not willing to marry the appellant.

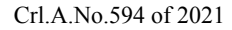
7.Considering the submissions and on perusal of the materials, it is seen that in this case PW1 is the victim who is a major and a graduate. She admits that she was in conscious relationship with the appellant and its consequences. It is admitted by PW1/victim that she and appellant were intimate had physical relationship not once but on several occasions and it was voluntary by medical record/Ex.P6. PW8/Doctor records the same. Earlier to it, there was some resistance for the marriage between the appellant and victim since the marriage of the appellant's sister was to take place during February 2019. The victim, being an impulsive person had consumed poison and she took treatment at Government Hospital Chidambaram and thereafter at Rajah Muthiah Medical College and Hospital, Chidambaram. PW9 and PW7 confirm the same. PW10/Sub-



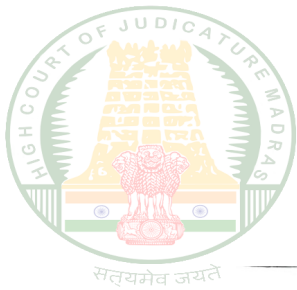
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Inspector of Police who recorded the statement of the victim. In Ex.P8 records is clear that the victim had not made serious allegation against the appellant and she was interested to join the appellant by marriage which is later projected against the appellant. Even in Ex.P8 her only intention was to join the appellant and to marry him. It is seen that in this case both appellant and the victim are unmarried and even today, the appellant is ready to marry the victim and the victim when enquired about the marriage proposal by the respondent police on 24.07.2024, the victim refusal for marriage and she had forgotten her past relationship with the appellant and she is ready to forgive him. The victim given a written letter rejecting the proposal. A scan reproduction of the same is as follows.



<https://www.mhc.tn.gov.in/judis>



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அதன் மூலம் தாங்கள் குறித்த ரண் 04/19 ப/3 41/19
376, 506 (i) IPC தி 04 அடிக்குப்பதியுதர்த்த உத்தரவு
கமையர் பதிலா நீதிமன்றத்தில் விசாரணை நடைபெற்று
அருண்மொகாதுக்கு நீதிமன்றத்தில் துணிபணை அடிங்கிப்படித்த
அருண்மொகாது இவ்வடிக்கு சம்பந்தமாக அணிணை உயர்நீதிமன்றத்தில்
பெய்முறையுதர்த்த உத்தரவுகளால் அருண்மொகாது ரண்கு துணி
உத்தரவு தகாளி உருப்படி இடுக்கிதா ரணிபு அறிக்கை
கொடுக்கிப் பதில் தாங்கள் இணிபு 24.07.2024 இ தேதி
ரணிணை விசாரணை ரண்குரணி விசாரணையால் ரண்கு
அருண்மொகாது துணிபணை உத்தரவு தகாளி உருப்படி இணி
ரணிபு ரண்குரணி. பெய் ரண்கு துணிபணை உத்தரவு நீதி
யதார்த்தமாக இடுக்கியால் நடைபெறவில்லை ரணிபு
ரண்குரணி தகாளிகுரணி.

இப்படிக்கு

A. Saraswathi

1- A. Gnanthi

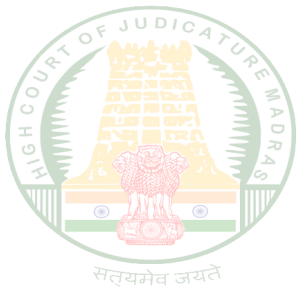
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8. It is now seen that it is the victim who is not interested to marry the appellant though the appellant is still unmarried and ready to marry the victim. The Panchayat President of Vakkur Panchayat where the victim resides, also took initiative along with the elders in the village. The victim was steadfast not willing to marry the appellant and further, the marriage for the victim was arranged with another person. Thus, it is seen that the victim and the appellant, both major, educated, world wise, were in love with each other, had a conscious relationship knowing the consequences. It is seen that the victim now not willing to marry the appellant. Further, the evidence of the mother and sister of the victim, PW2 and PW3 are with exaggeration and contradictions, admitted by PW12. From the exaggerations and contradictions, it is seen that PW2 and PW3 somehow wanted to pin down the appellant. Now only the evidence of PW1 is available, who is a major, educated consciously were in close relationship with the appellant unmindful of consequences.



9.The Apex Court in the case of ***Prashant vs. State of NCT of Delhi***

reported in **2025 (5) SCC 755**, dealt with a similar issue and held that when the parties met multiple times at various places, including parks and in the house of the victim whether it is projected that the appellant had a forceful sexual relationship with her, neither did she stop meeting the appellant thereafter nor did she file a criminal complaint during the said period. It further held that it is inconceivable that the victim would continue to meet the appellant or maintain a prolonged association or physical relationship with him in the absence of voluntary consent on her part. The appellant and the victim were in a consensual relationship. They both are education adults. Further in paragraph No.20 it is observed as follows:

“20.....The relationship between the parties was cordial and also consensual in nature. A mere break up of a relationship between a consenting couple cannot result in initiation of criminal proceedings. What was consensual relationship between the parties at the initial stages cannot be given a colour of criminality when the said relationship does not fructify into a marital relationship.”

10.In view of the above, this Court is inclined to set aside the



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conviction and sentence imposed by the Trial Court.

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11.In the result, this Criminal Appeal stands allowed setting aside the judgment dated 29.07.2021 in S.C.No.242 of 2019 passed by the learned Sessions Judge, Mahila Court, Cuddalore. The appellant is acquitted from all charges. Bail bond if any executed shall stand cancelled. Fine amount if any paid shall be refunded.

13.10.2025

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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To

- 1.The Inspector of Police,
All Women Police Station,
Sethiyathope,
Cuddalore District.
- 2.The Sessions Judge,
Mahila Court,
Cuddalore.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

cse

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