



Crl.R.C.No.1631 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 02.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1631 of 2023 and
Crl.M.P.Nos.15361 & 15363 of 2023

Ujeebalan

...Petitioner

-Vs-

State represented by
The Inspector of Police,
All Women Police Station,
Cuddalore District.
(Cr.No.11/2017)

...Respondent

Prayer: Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C. to set aside the judgment dated 27.07.2023 in C.A.No.34 of 2023 passed by the learned I Additional District and Sessions Judge, Cuddalore, confirming the judgment of conviction and sentence made by the learned Judicial Magistrate, Additional Mahila Court, Cuddalore, in C.C.No.27 of 2018, dated 12.08.2022.

For Petitioner : Mr.N.U.Pressanna

For Respondent : Mr.S.Sugendran,
Additional Public Prosecutor



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ORDER

This criminal revision is filed by the accused against the concurrent judgment of both the Courts below, whereby he was convicted for the offence under Section 417 IPC and Section 4 of Tamilnadu Prohibition of Woman Harassment Act (in short 'the Act').

2 The respondent police registered a case in Cr.No.11 of 2017 against the petitioner for the offence under Section 417 IPC and Section 4 of the Act and after completing investigation laid charge sheet, which was taken on file in C.C.No.27 of 2018 by the learned Judicial Magistrate, Additional Mahila Court, Cuddalore. The learned trial Judge, after trial and hearing of arguments advanced on either side, by judgment dated 12.08.2022, convicted the petitioner/accused and sentenced him to undergo simple imprisonment for a period of one year for the offence under Section 417 IPC and to undergo simple imprisonment for a period of one year with fine of Rs.10,000/-, in default, to undergo simple imprisonment for a further period of three months for the offence under Section 4 of the Act and



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ordered the sentence to run concurrently. Challenging the same, the petitioner/accused had preferred an appeal in C.A.No.34 of 2022. The learned I Additional District & Sessions Judge (FAC), Cuddalore, after hearing both the parties, by judgment dated 27.07.2023, dismissed the appeal and confirmed the judgment of conviction made by the trial Court. Challenging the concurrent judgment of conviction made by both the Courts below, the petitioner is before this Court with the present criminal revision case.

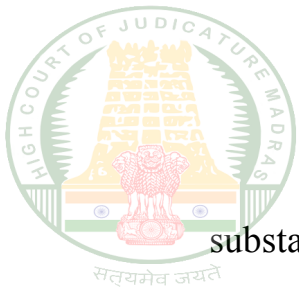
3 Case of the prosecution is that the petitioner and the defacto complainant one Sathyabama got engaged and accordingly betrothal function was conducted in the presence of their family and friends on 17.04.2017 and on the same day their marriage was scheduled on 22.09.2017. All the arrangements were made on the side of the defacto complainant's family by printing marriage invitation cards and distributing the same to her family, neighbours and friends. On 21.09.2017, during the marriage reception, at about 6.00 p.m. the petitioner/accused went out of the marriage hall stating that he would return within a short while, but,



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however, he did not return to the marriage hall and even after search throughout the night, he could not be found. Therefore the marriage between the defacto complainant and the petitioner was stopped and on further search, the defacto complainant's family came to know that the petitioner/accused married one Uma, Tindivanam. The petitioner/accused made the defacto complainant and her parent to believe that he would marry the defacto complainant and made them to make all arrangements and left the marriage hall during marriage reception i.e. just one day prior the marriage. Therefore the petitioner/accused committed offence under Section 417 IPC and Section 4 of the Act.

4 Learned counsel for the petitioner would submit that the Courts below failed to appreciate the fact that no evidence was placed to show that betrothal function was conducted for the petitioner and the defacto complainant on 17.04.2017 and no evidence was put before the trial Court to prove that the marriage between the defacto complainant and the petitioner was scheduled on 22.09.2017. Except the defacto complainant and her family members, no independent eye witness was examined to



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substantiate the case of the prosecution. Even though it was stated by the defacto complainant that in the presence of family members, friends and neighbours, the betrothal function was conducted and marriage was also scheduled on 22.09.2017, none of the friends or neighbours, who were present during the alleged betrothal function were examined to prove the allegations made by the defacto complainant. Prosecution examined only relative and parent of the defacto complainant, who are all interested witnesses. The defacto complainant made allegation against the petitioner that her parent, during the betrothal function, gifted the petitioner gold chain and bracelet worth about 3 ½ sovereign, but to prove the same neither she produced any receipt nor examined any independent witness. Furthermore the allegations of the defacto complainant does not attract the ingredients of offence under Section 4 of the Act. The trial Court failed to appreciate the oral and documentary evidence and also the legal proposition and erroneously convicted the petitioner/accused. The appellate Court also without re-appreciating the evidence, simply endorsed the view of the trial Court on the ground of sympathy and hence the conviction recorded by the trial Court is liable to be set aside.



5 The learned Additional Public Prosecutor for the respondent

police would submit that the petitioner's family approached the defacto complainant's family and made marriage proposal to marry the defacto complainant. Both the family accepted for the marriage and the family of the defacto complainant made all arrangements for betrothal function, which was conducted on 17.04.2017 and at that time marriage was also scheduled on 22.09.2017. After completing all the formalities, defacto complainant's parent printed marriage invitation card and distributed to the relatives, friends and neighbours. All of them gathered in the marriage hall on 21.09.2017 for the reception of the defacto complainant and the petitioner/accused. The petitioner/accused also came along with his family members and at that time at about 6.00 p.m. the petitioner went out of the marriage hall stating that he will come back within a few minutes. Thereafter neither the petitioner turned up nor could be traced out and hence the marriage was stopped, due to which, the family of the defacto complainant felt shame and also suffered stress. Therefore based on the complaint given by the defacto complainant, the case was registered and after investigation charge sheet was also laid. The trial Court has rightly



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appreciated the evidence and convicted the petitioner and the appellate Court also confirmed the conviction recorded by the trial Court, which does not call for any interference of this Court.

6 Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and perused the materials available on record.

7 It is the specific case of the prosecution that the petitioner got engaged with the defacto complainant and their betrothal function was conducted on 17.04.2017 and on the same day their marriage was also scheduled on 22.09.2017. Thereafter, the defacto complainant's parent made all arrangements for the marriage and they all gathered on 21.09.2017 in the marriage hall for the marriage reception and the petitioner's family members also came to the marriage hall. At that time, at about 6.00 p.m. the petitioner went out of the marriage hall without intimation and did not return. Thereafter, it was found that he married another girl and hence the defacto complainant made complaint.

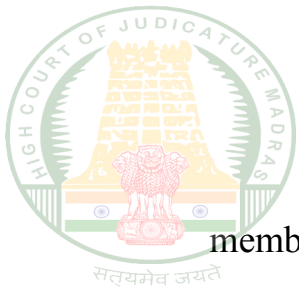


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The victim was examined as P.W.1 and she has clearly deposed that betrothal function took place on 17.04.2017 and marriage was also scheduled on 22.09.2017. The petitioner made the victim and her family to believe that he would marry the victim and made them to make all arrangements for the marriage and on 21.09.2017 i.e. just one day prior to the marriage, during the marriage reception, left the marriage hall without intimation.

9 Even though it is contended by the learned counsel for the petitioner that the ingredients of the offence under Section 417 was not made out, a careful reading of the complaint, charge sheet and the deposition of the victim P.W.1, it is very clear that the petitioner has committed offence under Section 417 IPC.

10 Coming to offence under Section 4 of the Act, a careful reading of Section 4 of the Act and the evidence of P.W.1 the victim, it clearly reveal due to the act of the petitioner, the victim and her family



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members felt ashamed in front of their relative, friends and neighbours, who were all gathered in the marriage hall during the marriage reception i.e. one day prior to the marriage. Later, the victim came to know that the petitioner/accused married another girl and thereby the petitioner made the victim and her family members ashamed in front of their relatives, neighbours and friends, which would clearly attract Section 4 of the Act. Both the Courts below have rightly appreciated the oral and documentary evidence and convicted the petitioner.

11 Scope of revision is very limited and this Court, being a revisional Court, cannot sit in the arm chair of the appellate Court and revisit the entire evidence. The revision Court has to see whether there exist any perversity or legal impediment.

12 It is useful to refer the decision of the the Hon'ble *Supreme Court reported in (2012)9 SCC 460* in the case of *Amit Kapoor vs. Ramesh Chander and another* and the relevant portion of the decision is extracted hereunder:



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“12. Section 397 of the Code vests the court with the power to call for an examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the fact of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under Challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. There are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.”

13 Therefore Revisionsal Court, especially while dealing with Revision against concurrent findings of the Courts below, should exercise its jurisdiction, where the decisions under the challenge are grossly erroneous, there is no compliance with the provisions of law, the findings recorded are based on no material evidence and the judicial discretion has



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been exercised arbitrarily or perversely, however, it also requires justice to be done.

14 On reading of the entire materials and the legal provisions, this Court does not find any perversity in appreciation of evidence by both the Courts below and this Court does not find any patent error or illegality or infirmity in the judgments of the Courts below. There is no merit in the revisions.

15 Accordingly, this criminal revision case stands dismissed as devoid of merit and substance. Consequently connected miscellaneous petitions are closed.

02.04.2025

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

1. I Additional District and Sessions Judge, Cuddalore.
2. The Judicial Magistrate, Additional Mahila Court, Cuddalore.
3. The Inspector of Police, All Women Police Station, Cuddalore District.
4. Public Prosecutor, Madras High Court.

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P.VELMURUGAN, J.,

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