



Crl.A.No.137 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.No.137 of 2023

P.Anbuvel

... Appellant

Vs.

The State rep. by
The Inspector of Police,
All Women Police Station,
East Coimbatore,
Coimbatore District.
Crime No. 28 of 2021

... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C., to set aside the judgment passed by the appeal as against the judgment passed by the S.C.No.22 of 2022 dated 06.09.2022, on the file of the Session Court, Magalir Neethimandram, (Mahila Court) Coimbatore, Wherein the sole accused was convicted for the offences U/s. 324, 376(1) r/w.511 and 506(ii) of IPC and sentenced to undergo rigorous imprisonment for twelve years and to pay a fine of Rs.1,000/- (Rupees one thousand only)

For Appellant : Mr.R.Karthikeyan
For Mr.A.Tamilvanan

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

JUDGMENT



Crl.A.No.137 of 2023

This Criminal Appeal has been filed as against the judgment

dated 06.09.2022 passed by the learned Session Judge, Magalir Neethimandram, (Mahila Court) Coimbatore, in S.C.No.22 of 2022, thereby convicted the appellant for the offences punishable under Sections 324, 376(1) r/w.511 and 506(ii) of IPC.

2. The case of the prosecution was that while the victim was working in a silk shop as cashier, the accused was also working as salesman in the same shop. While being so, on 02.10.2021 at about 10.30 p.m., all the shop workers were left from work and the victim who was being the cashier had tallied the cash balance with accounts and came out from the shop and was waiting on the road for her father's arrival to go to her home. There was also drizzling and the accused was also sitting on the frontage of the shop. After seeing no one was there near the shop, with intention to commit sexual assault on the victim, he had taken away the victim behind the advertisement banner and subjected her to sexual assault by biding her lips. When the victim resisted the accused, he had slapped her and also threatened her. Fortunately, the victim's father reached there and she escaped from the hands of the accused. On the complaint, the respondent registered the FIR in Crime No.28 of 2021 for



the offences punishable under Sections 324, 376, 511 & 506(2) of IPC.

WEB COPY

After completion of investigation, they filed final report and the same has been taken cognizance in S.C.No.22 of 2022 for the offences punishable under Sections 324, 376(1) r/w 511 and 506(ii) of IPC.

3. On the side of the prosecution, they had examined P.W.1 to P.W.11 and marked documents in Ex.P.1 to Ex.P.11. On the side of the accused, no one was examined and no documents were marked. On perusal of the oral and documentary evidences, the trial Court convicted the appellant for the offences under Sections 324, 376(1) r/w 511 and 506(ii) of IPC and sentenced him as follows :-

S.No.	Conviction	Sentence
1	Section 324 of IPC	to undergo rigorous imprisonment for a period of one (1) year.
2	Section 376(1) r/w 511 of IPC	to undergo rigorous imprisonment for a period of ten (10) years and to pay fine of Rs.1,000/-, in default to undergo simple imprisonment for further period of six months.
3	Section 506(ii) of IPC	to undergo rigorous imprisonment for a period of one (1) year.

The above sentences are ordered to run concurrently. Aggrieved by the same, the present appeal.

4. The learned counsel appearing for the appellant submitted



Crl.A.No.137 of 2023

that even according to the case of the prosecution, the appellant attempted to commit the rape. Therefore, the respondent rightly charged the appellant for the offence under Section 376 r/w 511 of IPC. As per Section 511 of IPC, half of the sentence can be imposed for the offence under Section 376(1) of IPC. Hence, he prayed to allow this appeal.

5. Per contra, the learned Additional Public Prosecutor appearing for the respondent/State raised serious objection for allowing this appeal. Further, he would contend that the evidences recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. According to him, interference of this Court is not necessary in the findings arrived at by the trial Court.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. The victim was examined as P.W.1 and she deposed that on 02.10.2021 at about 10.30 p.m., while she was returning to her home from the shop, there was drizzling and she was waiting for her father's arrival. While being so, the appellant was also standing there and on

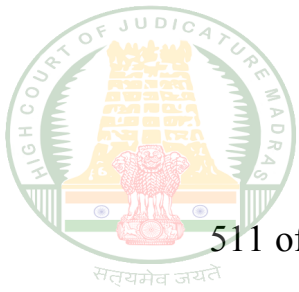


Crl.A.No.137 of 2023

WEB COPY

seeing that there was no one available and with an intention to commit sexual assault on the victim, he had taken her to hidden place between advertisement banner and compound wall. He forcibly drag her down and he had bitten her upper lips and also lifted her tops. He also bit her right side breast. Immediately, the victim tried to bang at board with closed fist to get noticed. Hearing the noise, the father of the victim came there and after seeing him, the accused ran away leaving his footwear. Immediately, the victim was rescued by her father and lodged complaint.

8. The father of the victim was examined as P.W.2. He also deposed and corroborated with the evidence of P.W.1. After the registration of FIR, the victim was taken to hospital for treatment. The doctor, who treated her was examined as P.W.7. He deposed that he noticed 0.5X0.5 c.m., abrasion on upper lip and swelling, 2 X 1 cm abrasion on left elbow of the victim. Further there was an injury found on her right side breast. Therefore, the prosecution categorically proved that the appellant with an intention to commit the rape on the victim, he had taken her in the hidden place and attempted to commit rape. Fortunately, the victim's father came there and rescued her. Therefore, the trial Court rightly convicted the appellant for the offence under Section 376(1) r/w.



Crl.A.No.137 of 2023

511 of IPC.

WEB COPY

9. In this regard, it is relevant to extract the provisions under Section 511 of IPC, as follows :-

“511 Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment:-

Whoever attempts to commit an offence punishable by this Code with imprisonment for life or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.”

Thus it is clear that, whether there is no express provision is made for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment for life or, as the case may be. There is no provisions to punish the accused for attempt to commit rape. Therefore,



Crl.A.No.137 of 2023

Section 511 of IPC can be invoked in this case.

WEB COPY

10. In view of the above discussions, the conviction imposed on the appellant by the judgment dated 06.09.2022 passed by the learned Session Judge, Magalir Neethimandram, (Mahila Court) Coimbatore, in S.C.No.22 of 2022, for the offence punishable under Section 376 (1) of IPC is confirmed. Insofar as the sentence is concerned, it is modified under Section 511 of IPC to half of the sentence viz., from ten years to five (5) years. Insofar as the other offences are concerned, the conviction and sentence imposed by the trial Court are hereby confirmed.

11. Accordingly, the Criminal Appeal stands partly allowed.

04.07.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
rts



WEB COPY



Crl.A.No.137 of 2023

G.K.ILANTHIRAIYAN, J.

rts

To

1. The Session Court,
Magalir Neethimandram,
(Mahila Court) Coimbatore.

2. The Inspector of Police,
All Women Police Station,
East Coimbatore,
Coimbatore District.

3. The Public Prosecutor
Madras High Court,
Chennai.

Crl.A.No.137 of 2023

04.07.2025