



CRL.R.C.No.232 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2025

CORAM

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

Crl.R.C.No.232 of 2023

Gopi alias Gunaseelan

... Petitioner

Vs.

State of Tamil Nadu,
represented by the Sub Inspector of Police,
Katpadi Women's Wing Police Station,
Vellore District.

... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 read with 401 of the Code of Criminal Procedure, to set aside the conviction and sentence passed vide Judgment dated 28.04.2022 made in Criminal Appeal No.62 of 2019 on the file of the Principal District and Sessions Judge, Vellore, Vellore District confirming the Judgment dated 09.04.2018 made in C.C.No.314 of 2015 on the file of the Judicial Magistrate Court, Katpadi.

For Petitioner : Mr.T.P.Prabakaran

For Respondent : Mr.A.Gopinath

Government Advocate (Crl.side)

ORDER

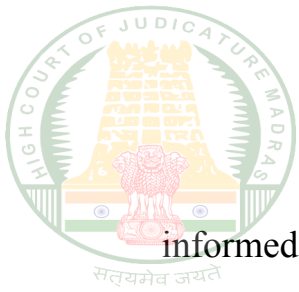


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WEB COPY This Criminal Revision case has been filed as against the Judgment passed in CrI.A.No.62 of 2019, dated 28.04.2022, on the file of the Principal District and Sessions Judge, Vellore, Vellore District, thereby confirming the order of conviction and sentence imposed by the Trial Court in C.C.No.314 of 2015, dated 09.04.2018, on the file of the Judicial Magistrate Court, Katpadi.

2. The case of the prosecution is that in the month of November, 2010, the petitioner approached the victim and informed that he was married to one Arul Pencilina and they had no issues. Therefore, he assured the victim that he would marry her and had sexual relationship with her. Believing the said words, the victim consented to the sexual intercourse and subsequently became pregnant. During her pregnancy, when the victim approached the petitioner to marry her, the petitioner stopped talking with her and also refused to marry her, since he is already a married person and his first marriage is very much in existence. Therefore, the victim lodged a complaint.

3. Thereafter, the petitioner was called for enquiry, during which he undertook to take the victim back to his house. It was advised that the victim shall stay at her parents' house until the delivery of child. On 05.10.2011, she delivered a female child in the Government Hospital and the same was duly



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informed to the petitioner. However, the petitioner did not turn up and never

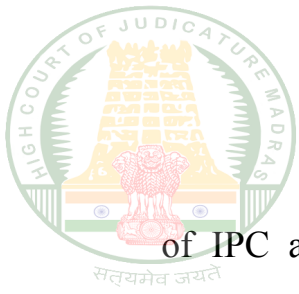
visited the victim or the child. Therefore, it was informed to the elders.

However, there was no reaction from the petitioner. Hence, the victim approached the petitioner, asked him to marry her and to take care of them.

Immediately, the petitioner scolded her with filthy language and also abused her, by saying the victim as prostitute. He also stated that he was not the reason for her pregnancy and the child was not born to him. Hence, the complaint.

4. On receipt of the complaint, the respondent registered FIR in Crime No.58 of 2012. After completion of investigation, filed a final report for the offences punishable under Sections 417, 294(b), 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and the same has been taken cognizance by the Trial Court, in C.C.No.314 of 2015.

5. In order to bring home the charges, the prosecution had examined PWs.1 to 8 and marked Exs.P1 to 4. On the side of the accused, no one was examined and no document was produced. On perusal of the oral and documentary evidences, the Trial Court found the petitioner guilty for the offence punishable under Section 294(b) and sentenced to undergo simple imprisonment for a period of three months, for the offence under Section 506(i)



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of IPC and sentenced to undergo simple imprisonment for a period of six months and for the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and sentenced to undergo simple imprisonment for a period of two years and shall pay a sum of Rs.10,000/- as fine, in default to undergo simple imprisonment for a period of three months.

6. The learned counsel for the petitioner would submit that the prosecution has failed to prove any of the charges as alleged by the prosecution. The petitioner never threatened and abused the victim with filthy language. In fact, the victim approached the petitioner and enquired about the birth of the female child. Therefore, the petitioner had no intention to threaten the victim at any point of time. In fact, the victim had absolute knowledge that the petitioner is already a married man. Further, the victim knows about the consequences of the sexual intercourse. Though a DNA test was conducted and it was established that the petitioner is the biological father of the child born to the victim, the petitioner had another child through his wife and therefore, he was unable to take care of the victim and her child. He further submitted that the petitioner was not given an opportunity to cross-examine the Doctor who issued certificate based on DNA samples taken from the victim and the child, which matched with the petitioner's blood sample to the extent of 99.99%. He further submitted



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that there is absolutely no specific allegation to attract the offence under

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Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act. The Trial Court had mainly relied upon the words allegedly uttered by the petitioner and convicted the petitioner. Even assuming that the petitioner harassed the victim, it was not taken place in any of the public place as required under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. He further submitted that there was numerous complaints lodged by the victim and her family members. Even PW.1 categorically admitted that the complaint was written as directed by the respondent. Therefore, no offence is made out as against the petitioner based on the complaint lodged by the victim and other relatives. Therefore, the entire conviction and sentence imposed by the Trial Court and the appellate Court cannot be sustained and is liable to be set aside.

7. Per contra, the learned Government Advocate (Crl.side) appearing for the respondent Police would submit that the victim was examined as PW.1. She categorically deposed that the petitioner approached her and induced her by stating he would marry her and thereafter had a sexual relationship with her. He further informed that he got married with one Arul Pencilina and had no issues. Despite being married, he assured the victim that he would marry her. Believing his words, the victim consented to the sexual intercourse and subsequently



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became pregnant. Since the victim was aware that the petitioner was a married

person, the Trial Court acquitted the petitioner for the offence under Section 417 of IPC. Further, as the sexual relationship was consensual, no offence is made out under Section 376 of IPC. However, after the birth of the female child, when the victim asked the petitioner to marry her, he scolded her with filthy languages and also called her a prostitute and stated that the child was not born to him. Therefore, the samples were taken from the victim, the child and the petitioner for a DNA test. The DNA test confirmed that the petitioner is the biological father of the child with a probability of 99.99%. Therefore, the charges are clearly proved against the petitioner and both the Trial Court and the appellate Court had rightly convicted the petitioner and it does not warrant any interference by this Court.

8. Heard both sides and perused the materials available on record.

9. It is seen that after completion of investigation, the first respondent filed a final report for the offences under Sections 417, 294(b), 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. However, the Trial Court framed the charges only for the offences under Sections 294(b), 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of

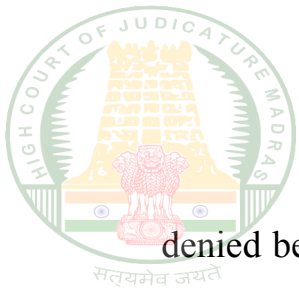


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Harassment of Women Act. The victim was examined as PW.1. A perusal of the

deposition of PW.1 revealed that the petitioner was informed about her pregnancy, but he did not respond. Thereafter, when she insisted to marry her, the petitioner stopped her contact. In the month of February, 2011, the matter was informed to the elders, who advised the petitioner to take the victim to his house. Thereafter, the victim stayed at the house of the petitioner for two months. Thereafter, she was driven out to her parents' house. Consequently, she lodged a complaint on 24.06.2011 before All Women Police Station, Katpadi. On enquiry, she was advised to stay at her parents' house till her delivery. On 05.10.2011, she delivered a female child in the Government Hospital, Senur. Despite being informed, the petitioner failed to visit the baby as well as the victim and did not respond to her phone calls. While being so, on 08.02.2012, at about 07.30 a.m, the victim met the petitioner at Karasamangalam and questioned him. He immediately abused the victim stating as prostitute and also stated that he is not the father of the female child born to the victim. He threatened that to kill her if she disclosed to anyone that he is the father of the child born to the victim.

10. Therefore, she lodged a complaint and the same was registered in Crime No.58 of 2012 and the same was marked as Ex.P3. Since the petitioner



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denied being the father of the child born to PW.1, the prosecution subjected the petitioner, the victim and the female baby to DNA testing. It confirmed that the petitioner is the biological father of the female child born to the victim to the extent of 99.99%. The mother of the victim was examined as PW.2 and corroborated the evidence of PW.1. She further deposed that the petitioner had threatened the victim with dire consequences stating that he would kill her if she revealed that he is the biological father of the child.

11. Therefore, the prosecution had categorically proved the offence punishable under Section 294(b) and 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and this Court finds no infirmity or illegality in the Judgment passed in Crl.A.No.62 of 2019, dated 28.04.2022, on the file of the Principal District and Sessions Judge, Vellore, Vellore District, thereby confirming the order of conviction and sentence imposed by the Trial Court in C.C.No.314 of 2015, dated 09.04.2018, on the file of the Judicial Magistrate Court, Katpadi.

12. Accordingly, this Criminal Revision case stands dismissed. The respondent is directed to secure the petitioner to undergo remaining period of sentence.



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G.K.ILANTHIRAIYAN, J

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To

1. The Principal District and Sessions Judge,
Vellore, Vellore District.
2. The Judicial Magistrate Court, Katpadi.
3. The Sub Inspector of Police,
Katpadi Women's Wing Police Station,
Vellore District.
4. The Public Prosecutor,
High Court, Madras.

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