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Crl.A.No.711 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 24.09.2025

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

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Deepak

... Appellant/Accused

Versus

The State represented by its
The Inspector of Police,
W-16, All Women Police Station,
Pulianthope, Chennai.
(Crime No.7 of 2013).

... Respondents

PRAYER : Criminal Appeal filed under Sections 374(2) of Cr.P.C., praying to call for the records relating to the proceedings in S.C.No.309 of 2015 on the file of the learned Sessions Judge, Mahila Court, Chennai and set aside the judgment passed in S.C.No.309 of 2015 dated 11.10.2018.

Appellant : Mr.T.Shanmuga Boopathy
For Respondent : Mr.Leonard Arul Joseph Selvam
Additional Public Prosecutor
Assisted by
Ms.Harshana.T.

JUDGMENT

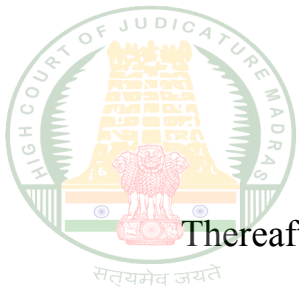
The appellant/accused was convicted by the trial Court in S.C.No.309 of 2015 by the judgment dated 11.10.2018 for the offence under Section 417



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of I.P.C. and sentenced to undergo six months simple imprisonment and to pay a fine of Rs.50,000/-, in default to undergo three months simple imprisonment. Aggrieved by the conviction, the appellant had preferred this appeal.

2.(i) The brief facts of the case is that the appellant and the victim/de-facto complainant were residing in the same area and they were in love with each other for more than four years prior to 16.06.2013. The victim lost her parents and she is living with her siblings. On 15.06.2013, the appellant on the promise of marriage, took the victim to Tiruppati. In Tiruppati, they booked a cottage and stayed that night. In the room, the appellant tied a Thali confirming their marriage. Thereafter, he also had physical relationship with the victim. On 16.06.2013, the appellant, victim and his friends came back to Chennai, thereafter the appellant removed the Thali and asked the victim to stay in the corner of the road and informed that he will bring his mother and thereafter take her home and shall have a formal marriage in a temple. For more than two hours, the victim was waiting and the appellant not turned up.



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Thereafter at about 11.00 p.m. she went to the appellant's house, there the appellant was not available except for his uncle and she came back to her home. The next day on 17.06.2013, when the victim went to the appellant's house along with her relatives and requested for accepting their relationship and marriage, the appellant's family members in presence of the victim family members requested that within few months appellant's father's death ritual is to be conducted and they sought for six months time to have the marriage. Hence, the victim and her relatives waited for that period and the victim was advised not to contact the appellant by phone or by any means. After the death ceremony (Devasam), when again the victim family members requested for marriage, at that time the appellant refused to marry her and also abused her questioning her character.

(ii) On 20.10.2013, the panchayat was held in the temple in the presence of one Devadoss and Raja. During the panchayat, there was a quarrel, the appellant took a knife from the deity and attempted to assault the victim. Thereafter complaint was lodged with PW8, who initially assigned



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CSR No.337/2013 dated 24.10.2013 and attempted for reconciliation to resolve the issue, which failed. Hence, F.I.R./Ex.P9 in Crime No.7/2013 for offence under Sections 417, 294(b) and 506(ii) of I.P.C. registered against the appellant. PW8 visited the scene of occurrence, prepared rough sketch/Ex.P10, thereafter handed over the investigation to PW9, who took up investigation on 19.02.2014, visited the scene of occurrence, enquired the victim and her relatives and the persons present in the scene of occurrence and prepared observation mahazar. The victim produced before PW7/Doctor for examination and Accident Register/Ex.P7 and report/Ex.P8 received. Thereafter the victim produced before the Magistrate on 11.05.2015, her statement under Section 164 of Cr.P.C./Ex.P2 recorded. The appellant after his arrest produced before PW6/Doctor, who had given Potency Certificate/Ex.P5.

3.During trial, on the side of the prosecution PW1 to PW9 examined, Exs.P1 to P11 marked. On the side of the defence, no witnesses examined



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and no documents marked. On conclusion of trial, the trial Court convicted the appellant as stated above.

4.The learned counsel for the appellant submitted that the specific case of the victim is that she was taken to Tiruppati on 15.06.2013, the appellant booked a room, they stayed there on 16.06.2013, thereafter the appellant tied Thali and had physical relationship with her. No one from Tiruppati cited or examined as witness in this case and no documents produced to confirm that the victim and the appellant stayed there along with his friends. Further in this case, the Thali not seized. The victim in her statement states that the complaint was written in police station and her sister signed the complaint. But in the complaint/Ex.P1, there is no reference to any sister but name of one Govindamma recorded, however, the said Govindamma not examined as witness. He further submitted that PW7/Doctor, who examined the victim had given Accident Register/Ex.P7 and Report/Ex.P8. In the report nothing was suggested that there was any recent injury on the private parts of victim and the hymen tear was not of recent one. In this case, the complaint has been



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given with a delay, F.I.R. registered on 10.11.2013 for the alleged occurrence said to have been taken place on 16.06.2013. PW2 is the aunt of PW1, an interested witness and she is in the nature of hearsay. PW3 is another relative, who was witnesses to the observation mahazar/Ex.P3. PW4 is one of the panchayatars, in his evidence it is clearly stated that no panchayat held since there was fight between two groups and they left. Hence, the victim had given exaggerated version as though knife was taken from deity and victim was threatened. The victim had been giving contradictory and exaggerated versions at each stage right from the time of lodging the complaint, in her 164 statement and in her deposition.

5.He further submitted that in this case victim's statement under Section 164 Cr.P.C. recorded two years after the complaint, i.e., on 02.05.2015. The trial Court failed to consider these aspects but convicted the appellant solely on the untrustworthy evidence of PW1. PW2/aunt in her evidence states that the alleged occurrence took place on 24.10.2013. She further admits that the appellant married one transgender. He further submits



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that the appellant and the victim are now married but with different partners and they are leading happy matrimonial life.

6.The learned Additional Public Prosecutor opposed the appellant's contention and submitted that in Ex.P1, the date of receipt of complaint is recorded as 24.10.2013 and CSR No.337/2013 recorded. Since it was a promise of marriage, whether any chances of reconciliation and resolvment of issue considered, hence, there was some delay in registering the F.I.R. on 10.11.2013. In the complaint/Ex.P1, PW1 had clearly narrated the love affair between the appellant and the victim for the past four years prior to 15.06.2013 and on 15.06.2013 their stay in Cottage at Tiruppati and the appellant tying Thali and also having physical relationship with the victim on 16.06.2013. Their stay at Tiruppati on 16.06.2013 is confirmed by PW9/Investigating Officer, who visited and examined one Kathaiya, Deputy Executive Officer of Govindarajasamy Chattiram, Central Reception Office. On perusal of the Register, it was found that on 16.06.2013 between 5.55 a.m. to 3.16 p.m. both the appellant and the victim stayed in Cottage No.691,



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which is confirmed in Register No.13061600010. After the occurrence, the

appellant and his family members informed the victim and her family members that the marriage could be held after six months. Thereafter victim family waited and panchayat held, which is confirmed by the evidence of PW4. The victim informed about tying Thali and also having physical relationship, which is confirmed by PW2. The medical evidence confirms about her physical relationship. There may be some minor contradictions which only confirms the truthfulness of the witnesses. In this case, PW1 in her statement clearly stated about their stay at Tiruppati, tying of Thali by the appellant and having physical relationship and thereafter the appellant refusing to marry. There is nothing suggested by the appellant for what reason he has been falsely implicated in this case.

7.This Court considered the rival submissions. It is seen that in this case PW1 is the victim. The victim and the appellant were in love with each other, which was not seriously denied. The victim was taken to Tiruppati by the appellant and both stayed in Tiruppati on 16.06.2013. At that time, on the



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promise of marriage, the appellant had physical relationship, which was clearly spoken by PW1 in her complaint/Ex.P1 and the same confirmed in her statement under Section 164 Cr.P.C./Ex.P2. The Investigating Officer/PW9 had gone to Tiruppati, examined witnesses and confirmed that they were stayed together. PW2/aunt of victim confirms that the victim informed about the love affair and stay at Tiruppati with the appellant and also about the physical relationship. The Doctor/PW7 confirms the same in his medical report/Ex.P8, which is in conformity to the prosecution case. PW4 the Headman of panchayat states about the failed panchayat. The trial Court considering the evidence and materials produced and after detailed analysis, convicted the appellant for offence under Section 417 of I.P.C. alone and acquitted him from other charges. The trial Court judgment is a well reasoned one and this Court finds no reasons to interfere with the same.

8.It is seen that in this case the appellant had been in prison from 11.10.2018 to 09.12.2018, i.e., for a period of 60 days. Now the appellant and the victim married with different partners and living happily with their



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respective family. In view of the same, this Court modifies the sentence to the period already undergone.

9. With the above modification, the Criminal Appeal is partly allowed.

24.09.2025

Index : Yes / No

Internet : Yes/No

Neutral citation : Yes/No

Speaking / Non-speaking order
rsi

To

1. The Sessions Judge,
Mahila Court, Chennai

2. The Inspector of Police,
W-16, All Women Police Station,
Pulianthope, Chennai.

3. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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