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CRL A No. 644 and 675 of 2017



DATED: 30-06-2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CRL. A. No. 644 of 2017
AND CRL. A. NO. 675 OF 2017

Crl.A.No.644 of 2017:

Manikanadan

Appellant(s)

Vs

The Inspector Of Police,
All Women Police Station,
Perambalur District.
Cr.No.07 Of 2015.

Respondent(s)

CRL A No. 675 of 2017:

1. M.Karupayee
2.M.Anjalai
3.P.Arumugam

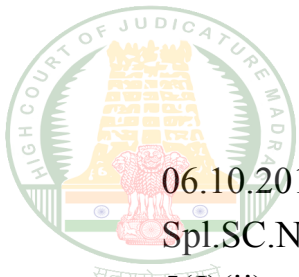
Appellant(s)

Vs

The Inspector Of Police,
All Women Police Station,
Perambalur District.
Cr.No.07 Of 2015.

Respondent(s)

PRAYER in CRL A No. 644 of 2017: This appeal has been filed under Section 374(2) of Criminal Procedure Code, 1973, to set aside the judgment dated



06.10.2017 passed by the Sessions Judge, Mahila Court, Perambalur in Spl.SC.No.17/2015 in erroneously convicting the appellant herein under Section 5(J)(ii) read with Section 6 of Protection of Children from Sexual Offences Act and sentencing him to undergo 10 years rigorous imprisonment and order to pay Rs.5000/- in default, to undergo SI for 3 years, and further convicting under Section 294(B) of IPC sentencing him to undergo SI of three months and order to pay Rs.1000/- default to undergo SI for one month, Section 506(i) of IPC sentencing him to undergo SI of two years and order to pay Rs.3000/- default to undergo SI of six months.

PRAYER in CRLA No. 675 of 2017: This appeal has been filed under Section 374(2) of Criminal Procedure Code, 1973, to set aside the judgment dated 06.10.2017 passed by the Sessions Judge, Mahila Court, Perambalur in Spl.SC.No.17/2015 in erroneously convicting the appellant herein under Section 294(B) of IPC sentencing them to undergo SI of three months and order to pay Rs.1000/- default to undergo SI for one month, Section 506(i) of IPC sentencing him to undergo SI of two years and order to pay Rs.3000/- default to undergo SI of six months.

For Appellant(s) : M/S.T.Dharani
in both appeals
For Respondent(s) MR.L.Baskaran
in both appeals : Government Advocate
(Crl. Side)

COMMON JUDGMENT

The appellant in Crl.A.No.644 of 2017 was tried as A1 and the appellants in Crl.A.No.675 of 2017 were tried as A2 to A4 before the Trial Court.

2. The case of the prosecution is that the appellant/A1 married the victim



girl [P.W.3] on 09.03.2015, when she was a minor. Her date of birth is

10.04.1997. The complaint was lodged by P.W.1, who had a consensual relationship with the appellant/A1 before the appellant married the victim/P.W.3. P.W.1 has alleged that the appellant/A1 committed cheating and rape since her consent for sexual intercourse was obtained on the false promise of marriage.

3. An FIR was registered in Crime No.7 of 2015 and on investigation, a final report was filed showing both P.W.1 and P.W.3 as victims. The appellant/A1 was tried in Spl.S.C.No.17 of 2015 by the Mahila Court, Perambalur. He was acquitted of the offences of cheating and rape (Sections 417 and 376 of the Indian Penal Code), said to have been committed upon P.W.1. Neither the prosecution nor P.W.1 had challenged the said Judgment of the acquittal.

4. The appellant/A1 was found guilty of the offences under Sections 5(j)(ii) r/w 6 of the Protection of Children from Sexual Offences Act, 294 (b) of



the Indian Penal Code and 506(i) of the Indian Penal Code. The appellants/A2

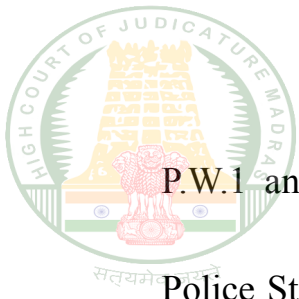
to A4 were found guilty of the offences under Sections 294(b) and 506(i) of the

Indian Penal Code.

5. During the pendency of the above appeals, P.W.3/victim filed an affidavit stating that she is now aged 27 years and she is happily married with the appellant with two children and hence, prayed that the Judgment of conviction may be set aside.

6. P.W.3 was present in person and confirmed the contents of the affidavit. She expressed that she is now happily living with the appellant and prayed for the acquittal of the appellant.

7. Though P.W.1 had not challenged the Judgment of acquittal in respect of the offences in which she was a victim, she was also produced before the Court. She stated that she is now married to another person and in view of the subsequent developments, the Judgment of conviction may be set aside. Both



P.W.1 and P.W.3 were identified by Mrs.R.Poongodi, HC 1615, All Women

Police Station, Mangalamedu, Perambalur District. This Court is satisfied that

the compromise is genuine and the parties would be prejudiced and subjected to hardships if the conviction is not set aside.

8. In identical circumstances, the Hon'ble Supreme Court in ***Mahesh Mukund Patel v. State of U.P. and Others***, reported in **2025 SCC OnLine SC 614**, held as follows:

“6. Our attention is invited to the affidavit filed by the third respondent in which she has accepted the fact that she is happily married to the appellant and they have been residing together. She has disclosed her date of birth as 20th July, 1998. In the record of the Primary School, as can be seen from document at Annexure ‘P-1’, the date of birth of the third respondent is shown as 20 July, 1998. Ossification test was conducted during the investigation. The report of the test is that on the date of commission of the offence, the age of the third respondent may be between 17½ years to 19 years. There are documents on record to show that the date of birth of the third respondent was 20th July, 1998. Therefore, when the offence was allegedly committed in September, 2016 she was already a major.

7. Now that the appellant and third respondent are happily married, no purpose will be served by continuing the prosecution as it will cause undue harassment to the appellant, the third respondent and their children.”

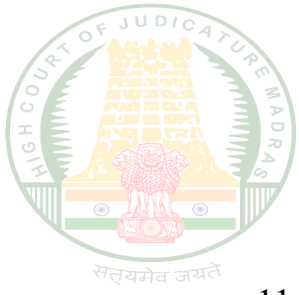


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9. In the above case, the Hon'ble Supreme Court had quashed the proceedings pending trial. However, the same can be extended even where the appeal is pending against conviction. In fact, in ***K.Dhandapani v. The State by the Inspector of Police*** [Crl.A.No.796 of 2022 dated 09.05.2022], the Hon'ble Supreme Court had set aside the judgment of conviction and sentence solely on the ground that the Court cannot shut its eyes to the ground reality and disturb the happy family life of the appellant and the prosecutrix. The relevant portion of the judgment reads as follows:

“In the peculiar facts and circumstances of this case, we are of the considered view that the conviction and sentence of the appellant who is maternal uncle of the prosecutrix deserves to be set aside in view of the subsequent events that have been brought to the notice of this Court. This Court cannot shut its eyes to the ground reality and disturb the happy family life of the appellant and the prosecutrix. We have been informed about the custom in Tamilnadu of the marriage of a girl with the maternal uncle.”

10. In view of the above, this Court is inclined to set aside the judgment of conviction and sentence and it is accordingly, set aside.



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11. The Criminal Appeal Nos. 644 and 675 of 2017 stand disposed of.

30-06-2025

Rli/dk/ars

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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CRLA No. 644 and 675 o
2017



SUNDER MOHAN J.

Rli/dk

1. The Inspector Of Police, All Women
Police Station, Perambalur
District.Cr.No.07 Of 2015.

2. The Judge, Sessions Mahila Court,
Perambalur.



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