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Crl.R.C(MD)No1406 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.01.2025

Pronounced on : 02.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1406 of 2024

S.Lokambal

... Petitioner/Defacto Complainant

Vs.

1. The Embal Police Station,
through its Sub Inspector of Police,
Embal, Thirumayam Taluk,
Pudukottai District.

...1st Respondent/
Complainant

2.Muthuvel

... 2nd Respondent/Accused

PRAYER: This Criminal Revision Case has been filed under Section 397 of the Code of Criminal Procedure, to call for the records relating to the judgment, dated 24.06.2022 in C.C.No.60 of 2021 on the file of the District Munsif-cum-Judicial Magistrate, Thirumayam and set aside the same.

For Petitioner : Mr.V.R.Shanmuganathan

For R1 : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl.side)

For R2 : Mr.R.Paranjothi
for M/s.KBS Law Office



ORDER

This Criminal Revision Case is filed against the judgment, dated 24.06.2022 passed in C.C.No.60 of 2021 on the file of the learned District Munsif-cum-Judicial Magistrate, Thirumayam and to set aside the same.

2.The brief facts of the case:

The revision petitioner is the *defacto* complainant. On the basis of complaint lodged by the petitioner, the first respondent police registered the case in Crime No.146 of 2020 U/s.147, 294(b), 323, 506(2) of IPC and U/s. 4 of the TN Prohibition of Harassment of Women Act, 2002 against the second respondent/Muthuvel, one Kalimuthu and some others. After completion of investigation, the first respondent police laid a charge sheet U/s.294(b), 323, 506(2) of IPC and U/s.4 of the TN Prohibition of Harassment of Women Act, 2002 against the second respondent alone. The learned District Munsif-cum-Judicial Magistrate, Thirumayam, has taken on cognizance as C.C.No.60 of 2021 U/s.294(b), 323, 506(2) of IPC and U/s. 4 of TN Prohibition of Harassment of Women Act, 2002 against the second respondent. After furnishing copies U/s.207 of Cr.P.C., charges were framed U/s.294(b), 323, 506(2) of IPC and U/s. 4 of TN PHW Act, against the second respondent, who denied the same. Thereafter, when the case was posted for examination of LW.1 to LW.4, the second respondent pleaded guilty and filed the petition admitting the charges.



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On the basis of admission, the learned District Munsif-cum-Judicial Magistrate, Thirumayam passed the impugned judgment convicting the second respondent U/s.294(b), 323, 506(2) of IPC and sentenced to pay a fine of Rs.1,000/- for each offence, in default, to undergo simple imprisonment for a period of two weeks for each charge and left the charge U/s.4 of TN PHW Act as it would not attract.

3. Aggrieved by the said judgment, the revision petitioner, who is the defacto complainant, has come forward with this present criminal revision case.

4. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Criminal Side) appearing for the first respondent, and the learned counsel for the second respondent. Perused the records in this Criminal Revision Case.

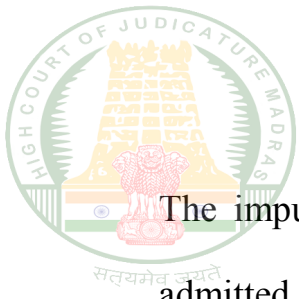
5. The learned counsel appearing for the revision petitioner has vehemently argued that the occurrence took place, which was not at private place, it was paddy land, the accused committed the offence of outraging the modesty of the defacto complainant at public place. The F.I.R. was registered U/s.147, 294(b), 323, 506(2) of IPC and U/s.4 of the TN Prohibition of Harassment of Women Act, 2002, against the second respondent and others, but



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the first respondent filed the charge sheet against the second respondent alone U/s.294(b), 323, 506(2) of IPC and under Section 4 of the TN Prohibition of Harassment of Women Act, 2002. Section 161 of Cr.P.C. statements are very clear implicating the second respondent and his brother-in-law, but the Investigating Officer laid a charge sheet against the second respondent alone. Moreover, though charges were framed U/s.294(b), 323, 506(2) of IPC and under Section 4 of the TN Prohibition of Harassment of Women Act, 2002, and though the second respondent denied the charges, later at the time examination of witness, the second respondent pleaded guilty of the charges. While being the acts so, the trial Court has to examine the witnesses and has to find out whether all the charges proved, but, the trial Court simply considered the admission of guilty and fined Rs.1,000/- each only for 294(b), 323 and 506(2) of IPC and further held that the charge U/s.4 of TNPHW Act would not attract.

6. Further, the learned counsel for the revision petitioner argued that the trial Court failed to issue notice to the defacto complainant and failed to examine the witnesses and also failed to consider that the occurrence took place at an open place by the second respondent and 15 others. It is settled law that when several persons assembled, it assumed the character of public place, thereby, Section 4 of the TNPHW Act would attract. Simply because the guilt is admitted, lenient view could not be given for the alleged offences.

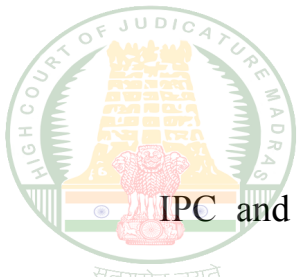


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The impugned judgment is not sustainable on the ground that once offences admitted, conviction should be made on all charges, leaving the charge U/s. 4 of the TNPHW Act, is violation of natural justice and lenient punishment of imposing fine alone awarded U/s.249(b), 323 and 506(ii) of IPC. The second respondent denied the charges framed against him. Later, at the time of examination of witnesses, he filed the admission petition, therefore, it is the duty of the trial Court to examine witnesses and render finding. The trial Court did not do so, hence, the impugned judgment has to be set aside and prays for order for trial according to law.

7. The learned Government Advocate (Criminal Side) appearing for the first respondent and the learned counsel for the second respondent have objected the criminal revision case and submitted that the occurrence took place which is a patta land. The trial Court has the discretion power to award punishment for the charge. On perusal of material records, the trial Court has clearly found that Section 4 of the TNPHW Act would not attract as the occurrence took place at patta land. Therefore, this Criminal Revision Case may be dismissed.

8. On hearing rival submission of both sides, it is clear that on the basis of complaint lodged by the petitioner, originally the first respondent police has registered a case in Crime No.146 of 2020 U/s.147, 294(b), 323 and 506(2) of



IPC and U/s.4 of the TNPHW Act against two named accused and others.

After investigation, the final report was filed against the second respondent alone U/s.294(b), 323 and 506(2) of IPC and U/s.4 of the TNPHW Act before the Judicial Magistrate Court, Thirumayam, leaving others. The Investigating Officer has not issued notice to the defacto complainant for leaving the other accused, as there are statements U/s.161 of Cr.P.C. available *prima facie* implicating other accused in the alleged crime. The final report was taken on cognizance as C.C.No.60 of 2021 under the same sections against the second respondent alone. The impugned judgment and trial Court records show that charges U/s.294(b), 323 and 506(2) of IPC and U/s.4 of the TNPHW Act were framed against the second respondent, who denied the same at first, but later at the time of commencing trial, he filed the petition admitting the charges. Upon his admission, the learned Judicial Magistrate, Thirumayam, found him guilty and imposed fine of Rs.1,000/- each for the offence U/s.294, 323, 506(2) of IPC and further found that the offence U/s.4 of the TNPHW Act would not attract.

9. At this juncture, the extract of relevant Sections 240, 241, 242, 354 (4) of the Criminal Procedure Code is useful for adjudication of criminal cases by the trial Courts.



“240.Framing of charge.

(1) If, upon such consideration, examination, if any, and hearing, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

(2) The charge shall then be read and explained to the accused, and he shall be asked whether he pleads guilty of the offence charged or claims to be tried.

241. Conviction on plea of guilty.

If the accused pleads guilty, the Magistrate shall record the plea and may, in his discretion, convict him thereon.

242.Evidence for prosecution.

(1) If the accused refuses to plead or does not plead, or claims to be tried or the Magistrate does not convict the accused under section 241, the Magistrate shall fix a date for the examination of witnesses.

(2) The Magistrate may, on the application of the prosecution, issue a summons to any of its witnesses directing him to attend or to produce any document or other thing.

(3) On the date so fixed, the Magistrate shall proceed to take all such evidence as may be produced in support of the prosecution:

Provided that the Magistrate may permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined or recall any witness for further cross-examination.



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10. In the instant case, on furnishing copies of prosecution records to the second respondent U/s.207 of Cr.P.C., the trial Court has found prima facie case and framed charges U/s.294(b), 323, 506(ii) of IPC and U/s.4 of TNPHW Act. The second respondent denied the charges after the same were read over and explained to him. Therefore, the accused has denied the charges at first, therefore, the trial Court fixed the case for trial as per provisions U/s.242 of Cr.P.C. and issued summons to L.W.1 to L.W.4. At this juncture, the second respondent filed the petition admitting the offences and pleaded guilty.

11. As per Indian Penal Code, if an accused found guilty U/s.294(b) of IPC, the accused shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both and for U/s.323 of IPC, the accused shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both. The second respondent also pleaded guilty for the charge U/s.506(ii) of IPC.

506. Punishment for criminal intimidation.--

Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;



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If threat be to cause death or grievous hurt,

etc. - *and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or 3*[imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.*

12. From the above provision, it is clear that the imprisonment for a term which may extend to seven years, as the second respondent committed the offence U/s.506(ii) of IPC. It is also pertinent to note here that charges U/s.506(ii) of IPC and U/s.4 of TNPHW Act are also framed against the second respondent. Therefore, after denial of charges at the time of framing, at later part, the admission of charge by the second respondent could not be taken as a voluntary one. The trial Court has to examine the ocular and material witnesses and to consider the testimony of witnesses to corroborate the admission and understand the context of the crime. While an accused admits the charge, at the time of giving evidence, it is to be considered as a crucial piece of evidence against him and the Court may call witnesses to corroborate the particulars of the crime and establish the context of the admission. In spite of the accused's

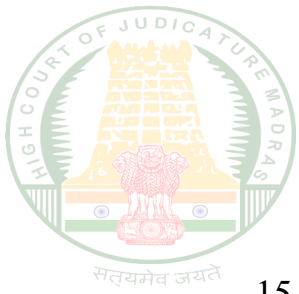


admission, the trial Court would have the discretion to assess the evidence of a material witness.

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13. Here, the trial Court has not called material witnesses and has not examined them, simply on pleading guilty by the second respondent, the trial Court imposed only a fine of Rs.1,000/- each for the offence U/s.294(b), 323, 506(ii) of IPC. For the offence U/s.506(ii) of IPC, imprisonment may be given upto 7 years. If it is so, as per provisions of Sec.354(4) of Cr.P.C. *“When the conviction is for an offence punishable with imprisonment for a term of one year or more, but the Court imposes a sentence of imprisonment for a term of less than three months, it shall record its reasons for awarding such sentence, unless the sentence is one of imprisonment till the rising of the Court or unless the case was tried summarily under the provisions of this Code”*. The trial Court has not even awarded imprisonment till the rising of Court U/s.506(ii) of IPC, that too without assigning any reason, simply fined Rs.1,000/-.

14. In the above facts and circumstances, this Court is of the considered view, the impugned judgment of the trial Court is not fulfilled as per the contents and language of Section 354 of Cr.P.C. and has not followed the settled legal principles and therefore, the same is liable to be set aside. The matter is to be remitted back for trial according to law.



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15. In the result, this Criminal Revisions Case is allowed. The judgment, dated 24.06.2022 passed in C.C.No.60 of 2021 on the file of the District Munsif-cum-Judicial Magistrate, Thirumayam, is set aside and the case is remitted back to the trial Court for disposal on merits by taking into observations made in this order, according to law.

02.04.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

- 1.The District Munsif-cum-Judicial Magistrate,
Thirumayam.
- 2.The Embal Police Station,
through its Sub Inspector of Police,
Embal, Thirumayam Taluk,
Pudukottai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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