

Crl.A(MD)No.623 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 12.06.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Crl.A(MD)No.623 of 2025
and
Crl.M.P(MD)No.6823 of 2025

Sirbi

... Appellant / Sole Accused

Vs

The state at Tamilnadu
represented by the Inspector of Police,
All Women Police Station,
Dindigul District.
(Crime No.11 of 2024)

... Respondents

PRAYER :-

This Criminal Appeal is filed under Section 415 of BNSS, to set aside the judgment and conviction passed by the learned Fast Track Mahila Court, Dindigul, Dindigul District in S.C.No.151 of 2024 dated 15.05.2025 and acquit the appellant herein.

For Appellant : M/s.S.Sarvagan Prabhu

For Respondents : Mr.R.Meenakshi Sundaram
Government Advocate (Crl.side)



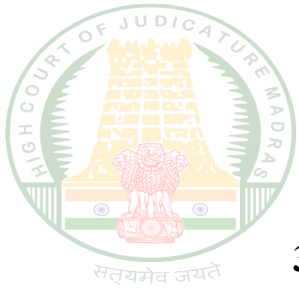
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JUDGMENT

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This Criminal Appeal has been preferred by the sole accused challenging the judgment and sentence dated 15.05.2025, passed by the learned Fast Track Mahila Court, Dindigul, Dindigul District, in S.C.No.151 of 2024.

2. The appellant is the sole accused who has been tried for the charges for the offences under Sections 417, 376(1), 294(b) and 506(i) of IPC. As per the case of the prosecution, P.W.1 who is the victim / defacto complainant, has been working from home at Natham for her company at Chennai. The accused developed acquaintance with P.W.1, during the course of his visits to P.W.1's mother's grocery shop. As P.W.1 might also take care of the shops in the absence of her mother, the accused made use of the opportunities, developed close association with her and then went to the extent of approaching her physically. On the assurance given by the accused that he would marry her, the accused had sexual relationship with P.W.1 on several occasions. P.W.1 had insisted him to marry her, but the accused refused. He has also abused and threatened her, not to disclose their relationship to anyone.



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3. On a complaint given by P.W.1, a case has been registered in Crime No.11 of 2024 and taken up for investigation. After completing the investigation, charge sheet was filed and taken cognizance in S.C.No.151 of 2024. Copies of the charge sheet was furnished to the accused and charges have been framed against him for the offences under Sections 417, 376(1), 294(b) and 506(i) of IPC. When the accused was questioned of the charges, the accused had denied his involvement and claimed to be tried.

4. On the side of the prosecution, nine witnesses have been examined as P.W.1 to P.W.9 and fourteen documents were marked as Ex.P.1 to Ex.P.14. On the side of the accused, no witness has been examined and one document has been marked as Ex.D1.

5. On completion of trial and hearing the arguments of both sides, after perusing the materials on record, the trial Judge found the accused guilty for the following offences and given with the punishments as shown under:

Offences	Punishment	Fine	Default Clause
Section 417 of IPC	To undergo one year rigorous imprisonment	Rs.50,000/-	To undergo three months simple imprisonment.

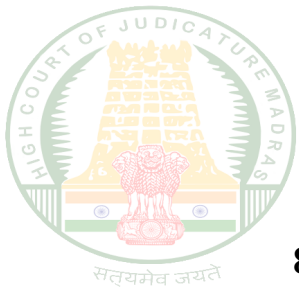


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6. After hearing the arguments and considering the evidence on record, the trial Court found the accused guilty only for the offence under Section 417 of IPC. It is also ordered that the fine of Rs.50,000/- can be withdrawn by P.W.1/Victim, as compensation. However, the accused was not found guilty for the other charges under Sections 376(1), 294(b) and 506(2) of IPC and he was acquitted as against those charges. The accused has filed this appeal, challenging his conviction for the charge under Section 417 of IPC.

7. Learned counsel for the appellant submitted that the accused is younger than P.W.1. The accused went to the shop of P.W.1's mother, on some occasions and he got connected to P.W.1. A case has been filed against him with an ulterior motive to get the accused marrying her, by placing him in a compelling situation. Though P.W.1 is three years older than the accused, the holistic reading of the evidence on record, does not show that her age has played any specific role in order to mitigate the criminal intent of the accused.



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8. P.W.1 used to mind the shop of her mother (P.W.2) during her absence. The accused used to come to the shop and developed acquaintance with P.W.1. It is not P.W.1, who had chased and forced him to have any relationship with her. So it is a kind of an affair that was developed by the accused and the defacto complainant and not an act of exploitation committed by the P.W.1, against the accused, by taking advantage of her three years seniority in age. P.W.2 who has been examined as the mother of the victim girl, has also stated the same facts that the accused developed relationship with her daughter, during the course of his visit to the petty shop.

9. In fact, it was a compelling circumstances for P.W.1 to give complaint as she was upset and exhibited symptoms of committing suicide. The same was noticed by her sister. At that time, P.W.1 told about the physical relationship she had with accused.

10. The trial Judge had chosen not to find the accused guilty for the offences under Section 376 of IPC by considering the fact that it was a consensual relationship. P.W.1 was aware of what is being done by her. Therefore, she was under the belief that the accused would marry her at some point of time as assured by him.

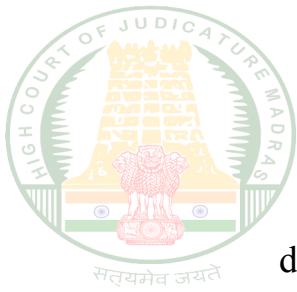


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11. It is not a mere case of promise to marry and then breaking the promise due to some extraneous reasons. It is a case where the accused has not assured to marry her. When pressure mounted on P.W.1 and when she requested the accused to marry her, he had simply stated that it was not his intention to marry her. So the accused did not intend to have any serious relationship with P.W.1. But with the dishonest intention in mind, the accused had induced P.W.1 to give consent for their relationship. The said act of the accused would amount to cheating.

12. Cheating is defined under Section 415 of IPC. For the sake of clarity the relevant provision is given below:

"415. Cheating - Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause



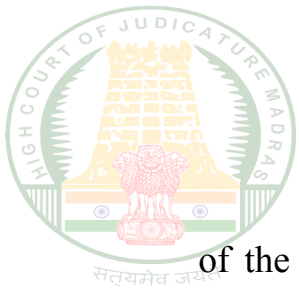
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damage or harm to that person in body, mind, reputation or property,
is said to "cheat".

13. P.W.1 did not have her father alive at the time of occurrence and it was her mother P.W.2 who was managing the family by running a petty shop. P.W.2 has three daughters and P.W.1 is the eldest. Naturally, the other two daughters were younger to P.W.1 would have been dependent on their mother and P.W.1 who was working from home for a IT Company at Chennai, so the vulnerability of the family of P.W.1 was very much patent in the way in which they needed to take care of their lives.

14. Much emphasis was made by the learned counsel for the appellant that P.W.1 has not stated anything incriminating against the accused in her statement under Section 164 of Cr.P.C. Only in her evidence she has deposed against the accused. P.W.1 herself had stated that she insisted the accused to marry her but he denied. Thereafter she approached the paternal uncle of the accused to intervene and resolve the issue. The parents of the accused were also not in an agreement with the idea to get the accused married to P.W.1. So P.W.1 has got no other go except to believe the words of the paternal uncle



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of the accused. When P.W.1 was confronted during her cross examination about the contradiction between her statement under 164 Cr.P.C., and her defence, she has stated that during 164 statement she did not prefer to state anything against the accused, as his paternal uncle was convincing her that he would try to marry him to her.

15. P.W.3 is a colleague of the father of the victim who had also endeavoured to resolve the issue by trying to materialise the marriage between the accused and the P.W.1. When P.W.3 also approached the paternal uncle of the accused, he stated that the parents of the accused were not willing to get P.W.1 married to the accused. The victim was helpless and she did not prefer to have a physical relationship with the accused, just for fun or time pass. The accused had given a false hope to P.W.1 to involve her physically, despite he knew that he would not marry her. That had influenced or prompted P.W.1 to give her person to the accused. Later when the accused refused to marry and the parents of the accused were also not willing to marry her to the accused, she decided to commit suicide. At no stage, the age of the victim was of any better advantage to her. She did not play any fraud on the life of the accused but what had happened was the other way around. Hence the trial Court had



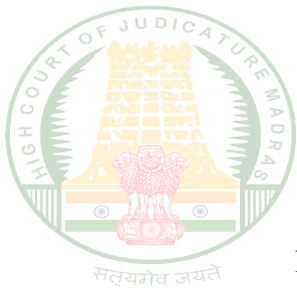
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found the accused guilty for the offence of cheating under Section 417 of IPC and convicted him.

16. Hence I do not find any solid and acceptable grounds required for any more detail hearing.

17. At this juncture learned counsel for the appellant submitted that the accused is also a young person and his life should not be affected due to the punishment of imprisonment and at least for that reason, the punishment can be modified by way of imposing fine alone.

18. The accused appears to have paid the fine of Rs.50,000/- already and that has been ordered as compensation payable to the victim girl. But the damage and harm caused to the victim girl is something that cannot be compensated in terms of money. Though the anxiety of the appellant that his life should not end in prison for the affair he had with the girl, this Court should also be fair to consider the mental agony suffered by the victim. Hence, I have to strike a balance by enhancing the fine amount and reducing the sentence by imposing proper modification on the punishment only.



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19. In the result,

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i) This Criminal Appeal is partly allowed, by modifying the sentences imposed by the trial Court as under :

Offences under Sections	Punishment imposed by the Trial Court	Punishment modified by this Court
Section 417 of IPC	<u>Punishment:</u> One year rigorous imprisonment <u>Fine:</u> Rs.50,000/- <u>Default Clause:</u> to undergo three months simple imprisonment	<u>Punishment</u> sentence is reduced to the period for which the petitioner had already been in prison during the time of investigation <u>Fine:</u> Rs.5,00,000/- <u>Default Clause :</u> to undergo six months simple imprisonment

ii) The said amount shall be paid within a period of one week from the date of receipt of a copy of this order.

iii) the defacto complainant is at liberty to withdraw the said amount by filing proper application before the trial Court.

iii) Consequently, connected miscellaneous petition stands closed.

12.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Fast Track Mahila Court, Dindigul, Dindigul District.
- 2.The Inspector of Police,
All Women Police Station,
Dindigul District.
(Crime No.11 of 2024)



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R.N.MANJULA, J.

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**Crl.A(MD)No.623 of 2025
and**

Crl.M.P(MD)No.6823 of 2025

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