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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2025

CORAM:

THE HON'BLE DR.JUSTICE R.N.MANJULA

CrI.A(MD)No.110 of 2017

K.Vishwanathan

...Appellant

Vs

The Inspector of Police,
Velliyannai Police Station,
Karur District, Crime No.162 of 2015.

... Respondent

Prayer : This Criminal Appeal Case filed under Section 374 of Cr.P.C to call for records relating to the Judgment, dated 11.05.2016 made in SC No.4 of 2016 on the file of the Mahila Court (FTC), Karur and set aside the same and acquit the appellant/accused.

For Appellant : Mr.R.Gowrishankar
Legal-Aid counsel

For Respondent : Mr.A.Albert James
Government Advocate (CrI.Side)



JUDGMENT

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The present appeal has been filed challenging the Judgment of the learned Sessions Judge, Mahila Court (FTC), Karur, dated 11.05.2016 made in SC No.4 of 2016.

2.The appellant is the sole accused, who has been convicted and sentenced in the following manner:

S.No	Provisions under which convicted	Sentence of imprisonment	Fine amount
1	448 IPC	1 year rigorous imprisonment	Rs.500/- in default to undergo one month simple imprisonment
	376 IPC	7 years rigorous imprisonment	Rs.1,000/- in default to undergo seven simple imprisonment

The sentences were ordered to be run concurrently.

3.The case of the prosecution is that on 29.07.2015 at about 2.00 a.m., when the defacto complainant was sleeping on a cot outside her house, but inside the compound wall, the accused trespassed into the house and lied on her and committed rape forcefully.



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4.As the charge sheet has been filed and the accused denied his involvement, he was subjected to trial. At the conclusion of trial the accused was found guilty under Sections 448 and 376 IPC and he was convicted and sentenced as stated *supra*.

5.Aggrieved over that, the appellant/accused has preferred this appeal.

6.The learned counsel for the appellant submitted that PW1 has given a false complaint against the accused, since she disliked the accused as he was living together with one Sarada, who is her neighbour. As the place of occurrence was dark, PW1 could not have identified the accused. The learned counsel for the appellant submitted that PW1 has not stated about anything as to the commission of rape in the complaint and she has only stated that the accused had bitten her breast. The medical evidence did not support the case of prosecution. The learned trial Judge has not properly appreciated the same and proceeded to record that the accused is guilty.



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7. The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the victim/PW1 is a 65 years old woman, who will not compromise her own modesty just to take vengeance against the accused on any alleged motive. Her evidence is concrete and clear and the trial Court has given due significance to her evidence. The trial Judge, after viewing the oral and documentary evidence in a right perspective, convicted the accused and therefore, no interference is warranted by this Court.

8. I have given my anxious consideration to the submissions made on either side and carefully perused the records.

9. The occurrence is said to have taken place on 29.07.2015 at about 02.00 a.m., when PW1 was sleeping in a cot, which was placed outside the house, but inside the compound wall. As PW1 intended to guard and mind her cattle tied inside her compound, she chose to sleep outside the house within the compound. The husband of PW1 was working as a night watchman in a private shop and her son is staying outside, due to his



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avocation. The accused was already known to PW1, as he used to visit her neighbour's house.

10. PW1 has stated in her complaint that on the day of the occurrence, while she was sleeping on a cot outside her house, the accused came near her. Upon sensing, PW1 shouted and asked him why had he come there. The accused lied on her and bit her breast. When PW1 screamed, the accused fled away from the place. On hearing her screaming, the neighbours came and chased the accused, but he managed to escape.

11. The occurrence is said to have taken place at 2.00 a.m., and the complaint was given at 5.00 a.m. The complaint statement was written by one Police and PW1 has affixed her thumb impression. PW1 is a senior citizen and illiterate. She cannot be expected to write a complaint by herself. And it is also not possible for her in that shock and anxiety to tell all the minute details. If the investigation has revealed that the accused had committed the offence of rape, then only the charge sheet can be filed for the offence under Section 376 IPC.



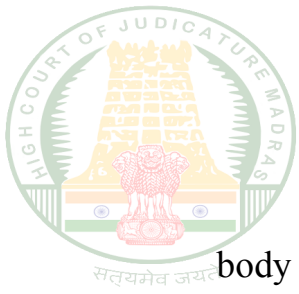
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12.PW1 was examined by the Doctor, PW6 at 08.15 a.m., on the same day. During that time, PW1 has stated to the Doctor about the name of the accused, who came in an inebriated condition and by showing a knife closed her mouth and raped her forcefully.

13.PW6, Doctor has stated in her evidence that on examination of PW1, she had seen injuries on the thumb and index finger and there was a contusion on her lips and her left nipple also had the bite marks.

14.As PW1 was 65 years old, due to muscle weakness her vaginal vault could have descended. In view of that, the Doctor could not ascertain whether PW1 was raped. However, the Doctor's evidence would confirm that there were bite marks on the nipple and contusion on her lips. This would probabilise the fact that PW1 had been subjected her to sexual assault by the accused as stated by her.

15.In the oral evidence of PW1, she has stated that she was raped by the accused by threatening her by showing knife. The injuries on the



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body of PW1 would also corroborate the same. The Doctor's evidence is only a corroborative evidence. If the evidence of PW1 is consistent and reliable the accused can be found guilty, even without the aid of any corroborative evidence.

16. In the cross-examination of PW1, she has stated that while she was struggling with the accused, people rushed up to come and hearing the hustle, he went away. It is true that PW1 was aware that the accused is living together with her neighbour, who got separated from her husband. The partner of the accused has been examined as DW1. In her evidence, DW1 has stated that PW1 used to fight with the accused as she did not like DW1 living with the accused without a marriage. She has further stated that PW1 used to curse him while coming in a motorcycle. Because of that also PW1 has the motive against the accused.

17. DW1 has further stated that the accused was sleeping in her house at the time of occurrence and when she enquired on the next day, she came to know that someone had entered into the house of PW1 and assaulted her sexually and then ran away. Even according to DW1, there



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was an occurrence, where a person had sexually assaulted PW1. The only difference in the evidence of DW1 is that PW1 has stated that it was the accused but DW1 believed that it should be some other person. While evaluating these evidence of the witnesses about the involvement of the accused in the occurrence, no doubt, the evidence of PW1 assumes more relevance. As she is the victim, she only can identify her perpetrator and the others can not presume who was that perpetrator. So the evidence of DW1 would only show that she had tried to save the accused with her evidence and her evidence is not reliable.

18. As the accused was already known to PW1, there would not be any difficulty for PW1 to identify the accused and mention his name. Even in the complaint given by PW1, the name of the accused has been rightly mentioned. PW3 is a neighbour, and he has stated that he came to the occurrence spot, after hearing the noise of PW1. He informed about the occurrence to her husband, after knowing it from PW1. After the husband and son of PW1 arrived, they went to the police station to give the complaint.



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19. The son of PW1, who came after hearing the news, was examined as PW2. The investigation officer, PW9 had recovered the dress worn by PW1 at the time of occurrence. When a question was posed on him, whether he had seen blood on the dress of PW1, he has stated that he did not notice it. PW1 has not stated that she had sustained any blood injury during the course of the occurrence. So the absence of blood stains on the clothes or omission to notice for any stain does not affect the case of the prosecution.

20. Even the rough sketch of the investigation officer did not reveal the presence of two street lamps, the evidence of the investigation officer would reveal that he has not documented the place of occurrence and the material objects in a proper manner. The above deficiency in the investigation shall not be allowed to affect the case of prosecution, when the victim PW1 has stated in clear terms how the occurrence had occurred. So the contradiction in the evidence of PW1 and FIR on certain immaterial facts shall not be allowed to discredit the case of prosecution, when the evidence of other witnesses including the events following the



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occurrence have been proved in a manner acceptable and the evidence is also reliable.

21. DW1, who is the partner of the accused has only tried to save the accused as discussed already. On a holistic appraisal of the evidence of the prosecution witnesses, the alleged occurrence is very much true. It was the accused, who had committed the offence of rape. There is no reason for a 65-year-old senior citizen to falsely lodge a complaint against the accused, at the cost of outraging her modesty. Even in the absence of any medical evidence, the evidence of the victim alone can be given due credence to convict the accused. As PW1 being an old woman, it is possible for vaginal vault to get descended. Neither PW1 nor her supporting witness PW3 has any motive against the accused.

22. In this regard it is relevant to refer the oft cited judgement of the Supreme Court held in ***State of Punjab vs. Gurmit Singh and Others***, (1996) 2 SCC 384. The relevant portion is extracted hereunder:

9.*The courts must, while evaluating evidence, remain alive to the fact that in a case of rape, no self-respecting woman would come forward in a court just to make a humiliating” statement against her honour such as is*



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involved in the commission of rape on her. In cases involving sexual molestation, supposed considerations which have no material effect on the veracity of the prosecution case or even discrepancies in the statement of the prosecutrix should not, unless the discrepancies are such which are of fatal nature, be allowed to throw out an otherwise reliable prosecution case.

The inherent bashfulness of the females and the tendency to conceal outrage of sexual aggression are factors which the Courts should not over-look. The testimony of the victim in such cases is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of a victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable.

Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. Why should the evidence of a girl or a woman who complains of rape or sexual molestation, be viewed with doubt, disbelief or suspicion?

The Court while appreciating the evidence of a prosecutrix may look for some assurance of her statement to satiny its judicial conscience, since she is a witness who is interested in the outcome of the charge leveled by her, but there is no requirement of law to insist upon corroboration of her statement to base conviction of an accused. The evidence of a victim of sexual assault stands almost at par with the evidence of an injured witness and to an extent is even more reliable. Just as a witness who has sustained some injury in the occurrence which is not found to be self-inflicted, is considered to be a good witness in the sense that he is least likely to shield the real culprit, the evidence of a victim of a sexual offence is entitled to great weight, absence of corroboration notwithstanding. Corroborative evidence is not an imperative component of judicial credence in every case of rape.



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23. A cumulative reading of evidence of PW1, Doctor's evidence and the evidence along with the material objects seized from the place of occurrence would prove that the occurrence was very much true and it had happened only on the victim by the accused. The learned trial Judge has rightly appreciated the evidence in a right perspective and found the accused guilty under Sections 448 and 376 IPC.

24. In the result, *this Criminal Appeal stands dismissed; the Judgment of learned Sessions Judge, Mahila Court, (FTC), Karur, is confirmed; the bail bond executed by the appellant shall stand terminated and the trial Court is directed to secure the accused into custody for serving the remaining period of the sentence.*

16.07.2025

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

1.The Sessions Judge,
Mahila Court (FTC), Karur

2. The Inspector of Police,
Velliyannai Police Station, Karur District, Crime No.162 of 2015.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

4.The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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R.N.MANJULA,J.

PNM

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