

Crl. A.(MD)Nos.408 and 371 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.08.2025

CORAM

THE HONOURABLE Dr. JUSTICE R.N.MANJULA

Crl. A.(MD)Nos.408 and 371 of 2017
and Crl.M.P(MD).No.9678 of 2017

Crl.A(MD).No.408 of 2017

1.Ashiq Meera

2.DYFI Saravanan

3.Maimoon Shariba

... Appellants/ A1, A3 & A4

Vs.

The State rep., by
The Inspector of Police,
Ponmalai All Women Police Station,
Tiruchirappalli District.
Crime No.10 of 2014

... Respondent/ Complainant

Prayer : This Criminal Appeal is filed under Section 374(2) of the Code of Criminal Procedure, to call for the records relating to the judgment dated 15.09.2017 made in S.C.No.45 of 2016 on the file of the learned Sessions Judge, Mahila Court, Tiruchirappalli, and set aside the conviction and sentence imposed against the appellants/accused and allow above appeal by acquitting the accused.

For Appellant : Mr.T.Lajapathiray
Senior Counsel for M/s.Ajmal Associates

For Respondent : Mr.K.Gnanasekaran
Government Advocate (Criminal Side)



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WEB COPY **Crl.A(MD).No.371 of 2017**

N.Chandrababu @ V.S.T.Babu

... Appellant/ A2

Vs.

The State rep., by
The Inspector of Police,
AWPS Golden Rock, Trichy.
Crime No.10 of 2014

... Respondent/ Complainant

Prayer : This Criminal Appeal is filed under Section 374 of the Code of Criminal Procedure, to set aside the judgment dated 15.09.2017 in S.C.No.45 of 2016 on the file of the learned Sessions Judge, Mahila Court, Tiruchirappalli, and allow the appeal as prayed for.

For Appellant : Mr.R.L.Dhilipan Pandian

For Respondent : Mr.K.Gnanasekaran
Government Advocate (Criminal Side)

COMMON JUDGMENT

These Criminal Appeals are filed challenging the order passed by the learned Sessions Judge, Mahila Court, Tiruchirappalli, in S.C.No.45 of 2016 dated 15.09.2017.

2. The appellants are the Accused Nos.1 to 4.



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3. The accused nos.1 to 4 have been found guilty for the following

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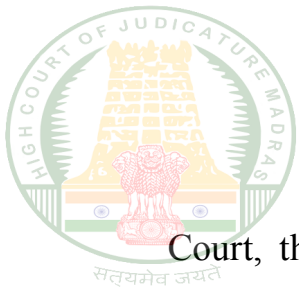
offences convicted and sentenced to the punishment as under:

Rank of the accused	Found guilty for the offences under Section	Punishment imposed by the trial Court
A1	Sections 313, 417, 376, 496 and 506(i) r/w 34 IPC	Section 313; To undergo 10 years RI and to pay a fine of Rs.20,000/-, in default to undergo SI for a further period of 3 years. Section 417; To undergo 1 year RI. Section 496; To undergo 7 years RI and to pay a fine of Rs. 10,000/-, in default to undergo SI for a further period of 3 years. Section 506(i) r/w 34 IPC; To undergo 2 years RI Section 376; To undergo RI for 10 years and to pay a fine of Rs. 20,000/-, in default to undergo SI for a further period of 3 years.
A2	506(i), 496 r/w 109 IPC	Section 506(i) IPC; To undergo 2 years (R.I) Section 496 r/w 109 IPC: To undergo 7 years (R.I) and to pay a fine of Rs.5,000/-, i/d to undergo 2 years of imprisonment
A3	506(i) 496 r/w 109 IPC	Section 506(i) IPC: To undergo 2 years (R.I) Section 496 r/w 109 IPC: To undergo 7 years (R.I) and to pay a fine of Rs.5,000/-, i/d to undergo 2 years of imprisonment



A4	506(i) 313 r/w 109 IPC	Section 506(i) IPC: To undergo 2 years (R.I) Section 313 r/w 109 IPC: To undergo 10 years (R.I) and to pay a fine of Rs.10,000/-, i/d to undergo for a further period of three years of imprisonment
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4. The case of the prosecution is that the first accused and the victim were in love with each other. On 14.12.2006, the accused presented and tied a chain to the victim in a temple and told her that a marriage between them has been held and compelled her to have a physical relationship with him. Thereafter, they had sexual intercourse in several occasions and due to which, the victim became pregnant. But, the first accused threatened the victim and asked her to abort the foetus and he tried to marry another person. When the victim questioned him about the same, he avoided her. The victim got pregnant once again in the year 2011 and that was also aborted. Subsequently, the victim got conceived, but that was not aborted. All the accused started threatening the victim stating that she should leave from the life of the accused. Subsequently, she gave a complaint and on that complaint an FIR has been registered in Crime No.10 of 2014 for the offences under Sections 313, 417, 376, 506(i) IPC. After completion of investigation, charge sheet has been filed against the accused. Since the offence is triable by the Sessions



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Court, the case was committed to the Sessions Court. The trial Judge has taken cognizance in S.C.No.45 of 2016 on the file of the learned Sessions Judge, Mahila Court, Tiruchirappalli. After completing the legal mandate of furnishing copies and all other legal formalities, the learned trial Judge framed charges against the first accused for the offences under Sections 417, 376, 496, 313 and 506(i) IPC and as against the accused 2 to 4, charges were framed for the offences under Sections 109 and 506(i) IPC. When the appellants were questioned, they denied the same and claimed to be tried.

5. During trial, on the side of the prosecution, P.W.1 to P.W.23 were examined and Exs.P1 to Exp29 were marked. Besides, Ex.D.1 and Ex.D.2 were marked. On the side of the defence, no oral and documentary evidence was let in.

6. After the conclusion of trial, based on the oral and documentary evidence, the learned trial Judge has convinced and sentenced the appellants as stated *supra*. Aggrieved over the same, these appeals have been preferred.

7. The learned counsel appearing for the appellants submitted that the relationship between the first accused and the victim was consensual in



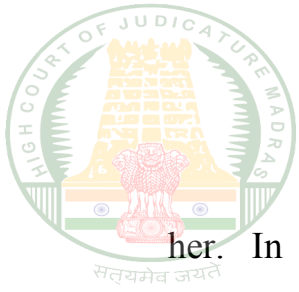
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nature and it cannot be construed as rape. Despite knowing that she was not legally married to the first accused, she continued to engage in physical relationship with him. This would show that it was a consensual sexual affair and not a rape by force or cheating. It is further submitted that the accused did not give any promise of marriage to the victim and she was well aware that such a marriage between them was not possible.

8. The learned Government Advocate (Crl.side) submitted that the trial Court has rightly appreciated the evidence placed and arrived at a conclusion by convicting the accused basing on the statement of the aggrieved woman and it does not require any interference.

9. I have given my anxious consideration to the submissions made on either side and carefully perused the materials available on record.

10. P.W.1, victim woman knew pretty well that she was not married to the first accused. The first accused left the victim at her mother's house, instead of taking her to his own house. However, the victim continued to maintain contact with him and got conceived repeatedly. Each time when she became pregnant, she underwent termination of the pregnancy. During that time also she knew well that the accused did not have any intention to marry



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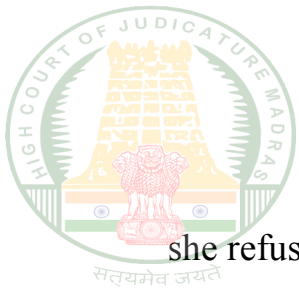
her. In fact, when she conceived for the third time, she was subjected to pressure by the accused and others to abort her foetus and so, she yielded to the pressure. Thereafter also, she got pregnant and gave pressure to the first accused to marry her. In fact, when she was conceived for the fourth time, she gave pressure to the accused by staying in his theatre. Despite facing threat, the victim is said to have carried the foetus and delivered the baby on 04.05.2014. Thereafter only, she has given a complaint and even the complaint appears to have been made for the purpose of uniting her with the accused. The father of the accused was a Minister, who died while he was holding the post. The first accused became the Deputy Mayor, subsequent to the death of his father. He continued his relationship with the victim, but he had chosen to marry someone else. The victim was fighting from the time she delivered the baby. The victim was working in ICICI bank at the time when she came into contact with the first accused. She could have been matured enough to understand what is happening around her. The accused did not deny the fact that he fathered a baby, but continues to contend that he never gave any assurance to marry her. Despite the same, the victim continued to have contact with him.



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11. Whatever may be the case, it appears that the victim and the first

accused have chosen to bury the hatchet and decided to part their ways. In the affidavit filed by the first accused, he has stated that he has already paid a sum of Rs.10,00,000/- as compensation to the daughter of P.W.1 as ordered by the trial Court under Section 357 of Cr.P.C and he has been paying a sum of Rs.20,000/- per month as maintenance to P.W.1 and her daughter from the year 2015 and he has given an undertaking that he would comply the order until the same is modified by any Court. He has also paid a sum of Rs. 25,00,000/- through demand draft bearing No.412321 dated 25.08.2025 drawn at Canara Bank, Puthur Branch, Trichy District, in favour of his daughter. When both parties appeared in person, P.W.1 has received the said demand draft, but continued to make statement saying that she only needs the love of the accused for her daughter and that he should visit the daughter once in a month. These facts may be relevant to the welfare of the child. But the choice of an individual to exercise his parental rights and perform such responsibilities cannot be given or insisted on him in this kind of criminal proceedings. The defacto complainant admitted that the first accused continued to pay a sum of Rs.20,000/- as maintenance each month, apart from the lumpsum paid by him already. It was stated by the accused that he had even purchased a house in the name of the defacto complainant's mother, but

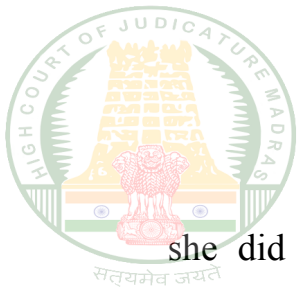


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she refused it.

WEB COPY 12. The whole reading of the judgment and records would only reveal that P.W.1 strongly believed that the first accused would marry her at some point, despite knowing that she was not legally married to him. Even after conceiving twice, she continued her relationship with him, which clearly indicates that it was her own voluntary act. Therefore, the physical relationship between the accused and the victim cannot be categorised as an offence falling under rape. Hence, it was not correct on the part of the trial Court to convict the accused for the offence under Section 376 IPC, and hence is liable to be set aside.

13. Insofar as the offence under Section 313 IPC is concerned, the miscarriage must have been caused by a person not acting in good faith. The doctor, who carried out the abortion of P.W.1 have not been impleaded as an accused. This is necessary to ascertain the circumstances that compelled the medical termination of the foetus carried by P.W.1. P.W.1 has stated that the accused had been compelling her to undergo an abortion, but she has not stated that the accused accompanied her or actively participated in the act of abortion so as to attract the punishment under Section 313 IPC. Even when it is alleged that the accused compelled her to abort during her fourth pregnancy,



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she did not heed anyone's words and continued with the pregnancy and delivered a baby. Therefore, it was always at the will of the victim to either accept or reject the opinion of the accused or any other person for that matter. Hence, it was not correct on the part of the trial Judge to conclude that the accused had committed an offence under Section 313 IPC.

14. In the year 2011, after the father of the first accused died, he married a woman from his own religion. He later informed the victim that the marriage took place only due to his father's compulsion. Even after that, the victim continued her relationship with him and underwent another abortion. The prosecution's case states that the victim delivered a baby while she was conceived for a third time, but in the evidence of P.W.1, she has stated that she conceived for fourth time also. In certain occasions, the abortion occurred naturally. In fact, the victim has admitted that during the period between 2007 and 2011, she had physical relationship with the first accused on numerous occasions, with a complete knowledge that he would not marry her. Hence, the life between the accused and the defacto complainant appears like a confused lot. In any case, the victim did not raise any objection to place herself in such a life situation. She has stated that the problems between the first accused and the victim had arisen nearly 50 - 60 times and on each



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occasion, she believed that she would be legally united with the first accused.

The conduct of the victim would show that she had also actively contributed to the consequences now being faced by her. The learned trial Judge, without appreciating the evidence in a comprehensive manner and without minding the evidence of the victim that the sexual relationship between herself and the accused was consensual, proceeded to find the accused guilty on all counts, including rape.

15. Now it is learnt that the victim was pursuing her law degree and had chosen to part her ways with the accused. In view of the above development and also considering the inadequate appreciation of the evidence, I feel, without much ado, the judgment of the trial Judge needs to be set aside.

16. There is no question of an offence committed by the accused under Section 496 IPC, as the victim was fully aware that no marriage had taken place between them. Despite this, she did not immediately lodge a complaint, but continued to maintain and develop her relationship with the first accused.



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17. The victim was well aware that there was no marriage happened between her and the first accused. In fact, the first accused had married another woman and at some point, the victim came to know about this. In such circumstances, it is difficult to believe that the victim has consented to have sexual intercourse with the first accused solely on the belief that he would marry her. Both the victim and the first accused appear to have placed themselves in a confused situation, and the accused had chosen to settle down with another woman. The victim on the other hand made a decision to carry the pregnancy to its full term, deliver the baby. Now the child is kept under her custody. Hence, I do not find an offence under Section 417 IPC is made out and proved against the accused.

18. Insofar as the offence under Section 506(i) IPC is concerned, the allegation is that the accused and others threatened the victim on several occasions to sever her ties with the first accused. Even according to the statement of P.W.1, both the accused and P.W.1 had been to the police station on 50 - 60 occasions due to recurring problems in their relationship. Despite this, they continued to maintain contact. Furthermore, P.W.1 has not given complaint immediately after the alleged threat was made by the accused 1 to 4. In order to punish the accused for the offence under Section 506(i) IPC, the



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threat should be actual as held by the Supreme Court in ***Prashant v. State***

(NCT of Delhi), (2025) 5 SCC 764. The relevant paragraph of the above

judgement is extracted hereunder.

“20. The ingredients of criminal intimidation are threat to another person, inter alia, with any injury to his person, reputation with intent to cause alarm to that person or to cause that person to any act which he is not legally bound to do. In the instant case, as already noted, the relationship between the Appellant and the complainant was consensual in nature. In fact, they wanted to fructify the relationship into marriage. It is in that context that they indulged in sexual activity. Therefore, there cannot be a case of criminal intimidation involved as against the complainant. We do not find that there was any threat caused to the complainant by the Appellant when all along there was cordiality between them and it was only when the Appellant got married in the year 2019 that the complainant filed a complaint. In the circumstances, we do not think that the offence Under Section 503 read with Section 506 of the Indian Penal Code has been made out in the instant case.”



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18. The alleged threat made by the accused to the defacto

complainant was that she should leave from the life of the first accused. The victim has stated that the accused threatened to implicate her in several cases and tarnish her reputation. However, the police complaints between the accused and the victim appear to have arisen out of their ongoing affair and it is noted that both had visited the police station for nearly 50 - 60 occasions. In sum, there is no cogent or convincing evidence to conclusively prove that the accused had committed an offence under Section 506(ii) I.P.C. As the learned trial judge has not appreciated the evidence in a right perspective.

19. In result,

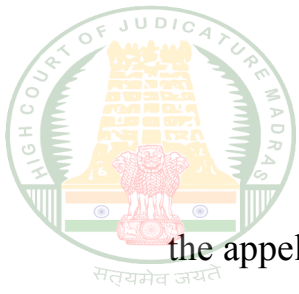
i) These Criminal Appeals are allowed.

ii) The judgment of the learned Sessions Judge, Mahila Court, Tiruchirappalli, in S.C.No.45 of 2016, dated 15.09.2017, is hereby set aside.

iii) The appellants are hereby acquitted of all charges framed against them.

iv) The bail bond shall stand cancelled and sureties, if any, shall be discharged.

v) The fine amount, if already paid, shall be refunded to



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the appellants/accused.

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Consequently, connected Miscellaneous Petition is closed.

28.08.2025

NCC : Yes/No

Index : Yes/No

Rmk

To

1.The Sessions Judge, Mahila Court, Tiruchirappalli.

2.The Inspector of Police,
Ponmalai All Women Police Station,
Tiruchirappalli District.

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



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JUDGMENT IN
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28.08.2025