



Crl.A(MD)No.509 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 10.07.2025

CORAM :

THE HONOURABLE DR. JUSTICE R.N.MANJULA

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Anbu @ Anbalagan

... Appellant/Sole Accused

Vs.

State rep. by
The Deputy Superintendent of Police,
Oomatchikulam Division,
Othakadai Police Station,
In Crime No.111 of 2016
Madurai District

... Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, to call for the records relating to the judgment passed in Spl.S.C.No.20 of 2017 dated 21.11.2017 on the file of the III Additional District and Sessions Court (PCR), Madurai and set aside the same.

For Appellant : Mr.R.Venkateswaran

For Respondent : Mr.A.Albert James
Government Advocate (Crl.side)



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JUDGMENT

This appeal has been preferred by the sole accused challenging the judgment dated 21.11.2017 passed by the learned III Additional District and Sessions Judge, Madurai, in Spl.S.C.No.20 of 2017.

2. The brief facts of the case are as follows:

i) The case of the prosecution is that aggrieved woman belongs to Scheduled Caste Community and she is living in Mettupatti with her husband and children. The accused belongs to some other community and he is residing in the neighboring village. On 27.02.2016 at about 5.30 p.m, when P.W.1 was cooking at her house, she had heard the noise and found that the accused was fighting with P.W.3 Chellammal by standing in front of P.W.1's house. Suddenly, the accused barged into the house of P.W.1 and stood behind her and tried to misbehave with her placing his hand on her breast. As she screamed, the neighbors came to her rescue. The accused threatened P.W.1 by stating that if she revealed his act to anybody, he would kill her and ran away from the house of



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P.W.1. However, P.W.1's husband came back home from work at about 10.00 p.m and they went to the Othakadai Police Station and gave a complaint (Ex.P.1).

ii) After completion of investigation, charge sheet has been filed for the offences under Sections 448, 354(A), 506(1) r/w 3(2)(va) of SC/ST Amendment (POA) Act, 2015.

iii) The case was taken cognizance by the trial court. On appearance of the accused, the charges were framed. On questioning upon the charges, the accused pleaded not guilty and claimed to be tried.

iv) After subjecting the accused for trial and after examining the oral and documentary evidence, the trial court found the accused not guilty for the offences under Section 3(2)(va) of SC/ST Act and found the accused guilty for the offences under Sections 451, 354-A(ii), 354 and 506(2) IPC and and convicted and sentenced him as under:



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Offences u/s	Punishment
451 IPC	One year (R.I), fine of Rs.500/- i/d one month(S.I)
354-A(ii) IPC	Three years (R.I), fine of Rs.1000/- i/d three months (S.I)
354 IPC	Three years(R.I), fine of Rs.1000/- i/d three months (S.I)
506(2)	Two years(R.I) fine of Rs.500/- i/d two months(S.I)

It was ordered that the sentences shall run concurrently and the period of imprisonment already undergone by the accused shall be set off under Section 428 Cr.P.C.

3. The learned counsel for the appellant made the following submissions:

i) As per the rough sketch and observation mahazar prepared by the Investigating Officers, the place of occurrence is shown as the front side of P.W.1's house. Hence, there is no question of the accused entering into P.W.1's house as alleged by the prosecution;



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ii) Even during the examination of P.W.10 and P.W.11, who are the Investigating Officers, they have stated that the occurrence had taken place only in front of P.W.1's house not inside the house;

iii) The eye witnesses have not supported the case of prosecution;

iv) The evidence of P.W.1 stand uncorrobarated and that has not been appreciate by the learned trial Judge.

4. The learned Government Advocate (Crl.side) submitted that the evidence of the aggrieved woman plays vital role and she has stated in her evidence about the sexual harassment caused by the accused and the trial court has properly appreciated the same in a right perspective. The judgment of the Sessions Judge does not warrant interference by this Court.

5. I gave my anxious consideration to the submissions made on either side and carefully perused the materials available on record.



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6. The categorical case of P.W.1 which appears from her complaint is that on the date of occurrence, while she was cooking in her house, she heard the noise and she came to know that the accused was fighting with one Chellammal and suddenly, he entered into the house of P.W.1 and misbehaved with her. In the evidence of P.W.1, she has stated the same facts. But the Investigating Agency while investigating the case had drawn the rough sketch by showing the place of occurrence is in front of P.W.1's house. It appears that even the Investigating Officers, who were examined as P.W.10 and P.W.11, had stated the same facts. It appears from the holistic reading of their evidence and the evidence of P.W.1 that the Investigating Officers were influenced by circumstance of the occurrence. There is contradiction in the statement of victim and the rough sketch given by the Investigating Agency with regard to the place of occurrence. The date of occurrence is undisputed, but the place of occurrence is mentioned as the front side of P.W.1's house, which raised a contradiction. The Investigating Officers are expected to pinpoint the place of occurrence by properly scrutinizing the complaint statement of the victim(P.W.1). In the complaint and in the evidence before the court



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P.W.1 stated that the occurrence had taken place inside her house, but, the Investigating Officers have ignored the same. It will attribute to flaw in the investigation and not falsity in the case of the prosecution. The learned trial Judge has dealt with the above issue in a manner it has to be.

7. So far as the evidence of P.W.1 in other aspects is concerned, she has stated that the accused with sexual intention had kept his hands in her breast and she screamed. Even though she had stated in her evidence that the neighbors gathered there on hearing her noise, none of other witnesses were examined on the side of the prosecution corroborated the evidence of P.W.1. They turned hostile.

8. When P.W.1 had stated that her modesty has been affected by the indecent act caused by the accused, it cannot be presumed that she is telling lies, unless there was any motive between the accused and P.W.1. Her evidence given in chief examination with regard to overt act of the accused in outraging her modesty asserted in the cross-examination also. Even without the support of other witnesses, the evidence of P.W.1 can



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be considered as stellar, as there was no motive between herself and the accused.

9. Even though P.W.1 has stated that the accused had touched her in improper manner, the trial Judge has not considered the presence of ingredient of Section 354(A)(1)(ii). The trial Judge ought to have rendered a finding that the accused had committed an act of sexual harassment enumerated in Section 354(A)(1)(ii) IPC. But the offence is wrongly mentioned as 354-A(ii). The same is extracted herein under:

354A. Sexual harassment and punishment for sexual harassment:

—(1) A man committing any of the following acts—

(i) ...

(ii) a demand or request for sexual favours; or

(iii) ...

(iv) ..

shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(3) ...



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10. P.W.1's evidence would show that the accused was in an intoxicated condition and he quarreled with some other person out side the house. All of a sudden, he entered into the house of P.W.1 and misbehaved with P.W.1. Had the accused not drunken and somber, it would have been possible to infer his intent to cause sexual harassment without any doubt. However, through the holistic reading of the evidence would show that the accused was not aware that what he was doing since he consumed alcohol.

11. Hence, I do not find any reason to discard the evidence of P.W.1 for the simple reason that her evidence was not corroborated with other eye witnesses. P.W.1 had chosen to give complaint after his husband arrived to home and it is quite natural on her part to take further action in the usual pattern of a woman at house.

12. As the accused entered inside the house of P.W.1 in order to outrage her modesty and that was proved by the clinching evidence of



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P.W.1, I feel the trial court's finding that the accused found guilty for the offence under Section 451 IPC should be upheld.

13. The trial court seem to have convicted the accused for the offence under Section 506(2) IPC by giving weight to his words that he had intimidated P.W.1 that she would kill her if she made noise. From the above stated words itself, intention of the accused was patent. He wanted P.W.1 not to shout and his intention is not to kill her and he had not intimidated by saying that he would kill her after some time. So, mere words alone is not sufficient to convict the accused for the offence under Section 506(2) IPC. It is trite law that mere words cannot be sufficient to convict the accused for the offence under Section 506(2) IPC. So, the finding of the trial Judge with regard to the finding of guilt and conviction under Section 506(2) IPC can be set aside.

14. It is seen that the trial Judge convicted the accused for the offence under Section 354 IPC also along Section 354(A)(1)(ii) IPC.



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15. Though the trial court has found the accused guilty for making demand for sexual favours, the ingredients as seen under Section 354 with regard to assault by using criminal force is not to be present.

16. The learned counsel for the appellant submitted that the accused is not a habitual offender and he was found to be in a case of alcohol and he had not done anything intentionally. Hence, the punishment imposed by the trial court is extensively harsh and some indulgence should be shown in the matter of punishment. As P.W.1 had herself stated that the accused consumed alcohol and he was in an intoxicated mood, I feel that can be considered as mitigating circumstance to reduce the punishment.

17. It is further submitted by the learned counsel for the appellant that the accused has got two school going children and he had met with an accident and hence, some sympathy can be shown by imposing fine only instead of imprisonment.



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18. The punishment contemplated under Section 354(A)(1)(ii) is either imprisonment or fine. The punishment contemplated under Section 451 IPC is inclusive of imprisonment and fine. Hence, the punishment of fine alone cannot be imposed for the offence under Section 451 IPC.

19. In view of the same and also taking into consideration of the submission of the learned counsel for the appellant and considering the fact that the accused is sober at the time of occurrence, I feel the punishment alone can be modified by confirming the guilt of the accused for the offence under Sections 354(A)(1)(ii) and 451 IPC. The accused is acquitted from the offence under Section 354 and 506(2) IPC and the judgment in respect of the offences are set aside.

20. In fine,

This Criminal Appeal is partly allowed and the judgment passed in Spl.S.C.No.20 of 2017 dated 21.11.2017 on the file of the III Additional District and Sessions Court (PCR), Madurai, is modified as under:



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Offences u/s	Punishment by trial court	Modified by this Court
451 IPC	One year (R.I), fine of Rs. 500/- i/d one month(S.I)	Sentence alone is modified. One month (S.I), fine of Rs.1000/-i/d one week (S.I)
354-A(ii) IPC	Three years (R.I), fine of Rs. 1000/- i/d three months (S.I)	The sentence is modified. Only fine of Rs.10,000/- i/d three months(S.I)
354 IPC	Three years(R.I), fine of Rs. 1000/- i/d three months (S.I)	Set aside
506(2)	Two years(R.I) fine of Rs. 500/- i/d two months(S.I)	Set aside

i)The trial court shall take steps to secure the accused to commit him to prison to serve out the period of sentence as aforesaid.

ii) If the fine amount imposed by the trial was already paid, the same shall be adjusted against the enhanced fine amount now imposed.

10.07.2025

Index : Yes/No
Internet : Yes/No
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To,

1.The III Additional District and Sessions Court (PCR),
Madurai

2.The Deputy Superintendent of Police,
Oomatchikulam Division,
In Crime No.111 of 2016
Madurai District

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



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R.N.MANJULA, J

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Judgment made in
Crl.A(MD)No.509 of 2017

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