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Crl.A. No. 371 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2026

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.A. No. 371 of 2023

A. Anantharaj
S/o. Arumainathan,
Kamaraj Street,
Sathanapattu,
Aandimadam Taluk,
Ariyalur District.

..Appellant

Vs.

The State rep. by
The Inspector of Police,
All Women Police Station,
Jayankondam,
Ariyalur District.
Cr.No.5 of 2019.

..Respondent

Prayer: Criminal Appeal filed under Section 374(2) Cr.P.C. to call for the records and set aside the judgment dated 27.01.2023 passed in S.C. No. 132 of 2019 by the learned Sessions Judge, Fast Track Mahila Court, Ariyalur.

For Appellant :: Mr.K. Ashok Kumar

For Respondent :: Mr.R. Vinothraja,
Govt. Advocate (Crl.Side)



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J U D G M E N T

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The above criminal appeal has been preferred as against the judgment dated 27.01.2023 in S.C. No. 132 of 2019 passed by the learned Sessions Judge, Fast Track Mahila Court, Ariyalur, by which the appellant was convicted for the offences under Sections 376 and 417 IPC and sentenced to undergo 10 years rigorous imprisonment together with a fine of Rs.1,00,000/- carrying a default sentence of simple imprisonment for one year for the offence under Section 376(2)(n) IPC and to undergo one year rigorous imprisonment together with a fine of Rs.10,000/- carrying a default sentence of simple imprisonment for one month for the offence under Section 417 IPC.

2. The case of the prosecution is that the appellant and the victim had a love affair for a period of 6 years prior to the occurrence; that on the promise of marriage, the appellant had sexual intercourse with the victim girl on several occasions; that when the victim requested the appellant to marry her, the appellant refused; that thereafter, the victim approached the relatives of the appellant and they abused the victim in filthy language and therefore, the appellant committed the offences under Sections 376, 417,



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294(b) and 506(i) IPC and the other accused committed the offences under Sections 294(b), 506(i) and 323 IPC.

3. On the complaint given by the victim girl, marked as Ex.P1, the Sub Inspector of Police, P.W.11, registered the FIR which was marked as Ex.P8 for the aforesaid offences. The investigation was conducted by P.W.12 and P.W.13 had filed the final report, The prosecution had examined 13 witnesses as P.W.s 1 to 13 and marked Exs.P1 to P12. The Trial Court, after considering the evidence adduced, both oral and documentary, acquitted the other accused and convicted the appellant as stated above.

4. Learned counsel for the appellant would submit that the evidence adduced before the Trial Court would show that the appellant and the victim girl had a consensual affair for more than 6 years; that the consent was not vitiated for any reason; that the victim had sexual intercourse with the appellant voluntarily; that neither the offence under Section 376 IPC nor the offence under Section 417 IPC is made out; that the victim had already filed an affidavit stating that she does not wish to pursue the case; that on the advice of elders and considering her future as well as that of the appellant,



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she had decided so and hence, the impugned judgment may be set aside.

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5. Learned Government Advocate (Crl.Side), on instructions, would confirm that the victim does not wish to pursue the case. However, he would submit that the prosecution had adduced evidence to prove the offences under Sections 376 and 417 IPC and there is no infirmity in the impugned judgment.

6.The victim is present in person identified by Ms.D. Tamilarasi, SSI, All Women Police Station, Jayamkondan, Ariyalur District. She would confirm that she does not wish to pursue the case. She would also confirm the contents of the affidavit filed before this Court dated 07.01.2026. The said affidavit is taken on record.

7. As stated above, the prosecution had examined 13 witnesses. P.W.1 is the victim. P.W. s 2 and 3 are father and mother of the victim respectively. P.W.4 is the Village Head, who speaks about the relationship between the appellant and the victim. P.W.5 belongs to the same village as that of the appellant and the victim and he also speaks about the relationship between the appellant and the victim. However, he did not support the prosecution case and hence, treated hostile. P.W.6 is another



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villager, who was treated hostile. P.W.7 also belongs to the same village and he speaks about the relationship between the appellant and victim girl. P.W.8 is the witness, who had signed in the Observation Mahazar, Ex.P3. He also turned hostile. P.W.9 is the Doctor, who examined the victim girl and rendered her opinion, which is marked as Ex.P4. The outpatient slip of the victim is marked as Ex.P5. P.W.10 is another Doctor, who examined the appellant and gave his opinion, Ex.P6. The potency certificate issued by P.W.10 is marked as Ex.P7. P.W.11 is the Sub Inspector of Police, who registered the FIR and P.W.s 12 and 13 are the Investigating Officers.

8. It could thus be seen that the prosecution relies upon the evidence of the victim and the Doctor to establish that the appellant had committed rape on the victim girl. The victim had stated before the Doctor P.W.9 that she had sexual intercourse with the appellant on several occasions. The victim, in her deposition, confirmed that she had a love affair with the appellant for about 6 years and had sexual intercourse with the appellant on several occasions prior to the filing of the complaint. Therefore, the prosecution has established that the appellant had sexual



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intercourse with the victim. However, the question is whether the consent was vitiated on account of any fraud played by the appellant.

9. It is the case of the prosecution that the victim was deceived by false promise of marriage made by the appellant. The victim was aged about 23 years at the relevant point of time. Even according to her, there was a love affair between her and the appellant for about 6 years. The evidence suggests that the relationship was consensual and her consent was not on the false promise of marriage and the promise of marriage was incidental. The Honourable Supreme Court, in the judgment rendered in ***Mahesh Damu Khare V. The State of Maharashtra*** reported in (2024) 11 SCC 398 has held in paragraph No.28 as hereunder:

'28. Thus, in a situation, where physical relationship is maintained for a prolonged period knowingly by the woman, it cannot be said with certainty that the said physical relationship was purely because of the alleged promise made by the appellant to marry her. Thus, unless it can be shown that the physical relationship was purely because of the promise of marriage, thereby having a direct nexus with the physical relationship without being influenced by any other consideration, it cannot be said that there was vitiation of consent under misconception of fact.'



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Therefore, neither the offence under Section 376 IPC nor the offence under Section 417 IPC is made out.

10. That apart, the victim has now filed an affidavit stating that she does not wish to pursue the case considering the future of both the appellant and the victim. The victim would state that she is married to another person and living happily with him and that the pendency of this case would affect her.

11. Considering all the above facts, this Court is of the view that the impugned judgment cannot be sustained. Hence, the conviction and sentence imposed on the appellant by judgment dated 27.01.2023 are set aside and the criminal appeal stands allowed. The appellant is acquitted of all the charges. Bail bonds, if any, executed shall stand discharged.

23.01.2026

Neutral Citation: Yes/No

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To

1. The Sessions Judge,
Fast Track Mahila Court,
Ariyalur.

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SUNDER MOHAN,J.

nv

2. The Inspector of Police,
All Women Police Station,
Jayankondam,
Ariyalur District.
3. The Public Prosecutor,
High Court, Madras.

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23.01.2026