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Crl.A.No.480 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.12.2025

PRONOUNCED ON : 02.01.2026

CORAM :

THE HON'BLE MR. JUSTICE SUNDER MOHAN

**Crl.A.No.480 of 2023**

P.Dinesh Kumar

... Appellant/Sole Accused

v.

The Inspector of Police,  
W-4, All Women Police Station,  
Kilpauk, Chennai.  
[Cr.No.3 of 2019]

... Respondent/Complainant

Criminal Appeal filed under Section 374(2) of Code of Criminal Procedure, against the conviction of the appellant/sole accused and sentence imposed on him in S.C.No.172 of 2021 dated 14.03.2023 on the file of the learned Sessions Judge, Mahalir Neethimandram, Chennai, and set aside the conviction and sentence and allow this appeal.

For Appellant : Mr.J.Hari Krishna  
For Respondent : Mr.S.Rajakumar  
Additional Public Prosecutor



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## **JUDGMENT**

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The Criminal Appeal challenges the judgment dated 14.03.2023 passed in S.C.No.172 of 2021 by the learned Sessions Judge, Mahalir Neethimandram, Chennai, convicting and sentencing the appellant/sole accused as follows:

| <i>Sl.No.</i>                                   | <i>Offence under Section</i> | <i>Sentence imposed</i>                                                                          |
|-------------------------------------------------|------------------------------|--------------------------------------------------------------------------------------------------|
| 1.                                              | 376(2)(n) IPC                | To undergo ten years RI and to pay a fine of Rs.50,000/-, in default to undergo three months SI; |
| 2.                                              | 417 IPC                      | To undergo one year RI and to pay a fine of Rs.5,000/-, in default to undergo one month SI;      |
| The sentences were ordered to run concurrently. |                              |                                                                                                  |

2. (i) The case of the prosecution is that the appellant and the victim had a love affair; that a betrothal function was conducted on 27.05.2019; that the marriage was scheduled to be held on 15.01.2020; that on 14.06.2019, the appellant took the victim to a hotel and compelled her to have sexual intercourse, stating that it was not wrong since they had now been engaged; that thereafter, the appellant had sexual intercourse with the victim on two other occasions at his residence; that he thereafter refused to marry the victim; and thus committed the aforesaid offences.



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(ii) On the complaint [Ex.P1] given by the victim [PW1], an FIR was registered in Ex.P10, and investigated by PW12. After examining the witnesses and collecting the evidence, PW12 filed the final report as against the appellant before the learned Metropolitan Magistrate, Additional Mahalir Neethimandram, Egmore Chennai, for the aforesaid offences.

(iii) On the appearance of the accused, the provisions of Section 207 Cr.P.C., were complied with, was committed to the Court of Sessions i.e., Principal Sessions Court, Chennai and was made over to the learned Sessions Judge, Mahalir Neethimandram, Chennai, for trial, which was taken on file as S.C.No.172 of 2021. The trial Court framed charges against the accused for the offences under Sections 376(2)(n) and 417 of the IPC and when questioned, the accused pleaded 'not guilty'.

(iv) To prove its case, the prosecution had examined 12 witnesses as P.W.1 to P.W.12 and marked 12 exhibits as Exs.P1 to Ex.P12, besides 1 material object, viz., P.M.O.1. When the accused was questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against him, he denied



the same. The accused neither examined any witness nor marked any document on his side.

(v) On appreciation of oral and documentary evidence, the trial Court found the appellant/accused guilty of the offence under Section 376(2)(n) and 417 of the IPC and accordingly, convicted and sentenced him as stated above. Hence, the accused has preferred the instant appeal challenging the said conviction and sentence.

3. The learned counsel for the appellant submitted that the evidence of PW1 would suggest that the appellant and the victim girl had a love affair for more than three years prior to the alleged occurrence; that with the consent of the elders, a betrothal function was conducted and thereafter they had a consensual relationship; that the allegation does not suggest the commission of rape or cheating; that the victim has now filed an affidavit stating that she does not wish to pursue the case on the advice of well-wishers and elders and both have decided to part as friends; that in any case since the offence under Section 417 of the IPC is compoundable, the finding of conviction and sentence by the trial Court may be set aside.



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4. Heard the learned Additional Public Prosecutor who confirmed that the victim does not wish to pursue the case and would further state that the appellant and the victim girl had a consensual relationship since 2015.

5. The victim was present in person, identified by Ms.G.Rami [WPC 63970], W4, All Women Police Station, Kilpauk, Chennai, and she confirmed the compromise arrived at between her and the appellant and she would state that she does not wish to pursue the case.

6. As stated earlier, the prosecution had examined 12 witnesses. PW1 is the victim; PW2 is the mother of the victim, who confirmed that there was a betrothal function conducted on 27.05.2019; PW3 and PW4 are witnesses to Observation Mahazar; PW5, is running a lodge in the name of Pearl View Residency and had handed over the CCTV footages in the hotel to the investigating officer wherein the appellant was found on the alleged date of occurrence; PW6 turned hostile; PW7 is the Manager working in the said lodge, Pearl View Residency Lodge and had handed over the receipts to establish that the appellant and the victim stayed in the hotel on two dates, that is on 12-06-2019 and 13-06-2019; PW8 is the friend of the appellant and would



confirm that they both had a love affair and also the fact that the appellant and the victim stayed in the hotel room on 13.06.2019; PW9 is the doctor who had issued potency certificate for the appellant; PW10 is the person who had downloaded the CCTV footages and copied it in a pen drive and handed over to the police; PW11 is the doctor who had examined the victim on 13.11.2019 and would state that the victim told her that she had consensual sexual intercourse with a known person by name Mr.Dhinesh Kumar on 14.06.2019 at 11.00 p.m., at a hotel and again had sexual intercourse 2 times at his house; P.W.11 made entries in Ex.P8; and PW12 is the Inspector of Police who had conducted the investigation.

7. It is not in dispute that the appellant and the victim girl had a love affair for nearly three years before the alleged date of occurrence and that a betrothal function was conducted on 27.05.2019. It is the case of the prosecution that the appellant had sexual intercourse with the victim girl on the promise of marriage in a hotel and had sexual intercourse twice at his residence. The deposition of the prosecution witnesses viz., PW5 and PW7 would show that the appellant and the victim stayed together for two days. The evidence of the doctor PW11 also shows that the victim had informed the



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doctor that she had sexual intercourse with her consent with the known person.

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8. The victim was aged 26 years at the time of the occurrence. Therefore, it cannot be said that she was not aware of the consequences of her act. Her deposition and other evidence on record would only suggest that the victim had a consensual affair with the appellant. Therefore, this Court is of the view that the offence under Section 376(2)(n) of the IPC is not made out.

9. Be that as it may, the victim does not wish to pursue the case and it appears that on the advice of elders, the parties have entered into a compromise. The victim had also signed a joint compromise memo which is taken on record. The appellant has also been convicted for the offence under Section 417 of the IPC. The said offence is compoundable. In view of the same, this Court is inclined to accept the compromise and consequently set aside the impugned judgment.

10. In the result, the Criminal Appeal is allowed. The judgment dated 14.03.2023 in S.C.No.172 of 2021 on the file of the learned Sessions Judge, Mahalir Neethimandram, Chennai, convicting and sentencing the appellant for



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the offences under Sections 376(2)(n) and 417 of the IPC, is set aside. The appellant/accused is acquitted of all the charges. The fine amount, if any, paid by the appellant shall be refunded. Bail bond, if any, executed shall stand discharged.

02.01.2026

Index : yes/no

Speaking /Non-speaking order

Neutral citation : yes/no

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SUNDER MOHAN, J.

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To

1. The Sessions Judge,  
Mahalir Neethimandram, Chennai
2. The Inspector of Police,  
W-4, All Women Police Station,  
Kilpauk, Chennai.
3. The Public Prosecutor,  
High Court, Madras.

Pre-delivery Judgment in  
Crl.A.No.480 of 2023

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