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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-11-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL A No. 535 of 2022

CNR: {HCMA010784802022}

Mohanasundaram

Case QR

..Appellant(s)

Vs

The State rep. by
All Women Police Station,
Bhavani, Erode District
(Crime No.13/2020)

..Respondent(s)

Prayer: The Criminal Appeal has been filed under Section 374(2) of Cr.P.C., to set aside the Judgment passed by the learned Sessions Judge, Mahalir Neethi Mandram (Fast Track Mahila Court, Erode) on 10.05.2022 and allow this appeal.

For Appellant(s): Mr.M.Vignesh

For Respondent(s): Ms. Sharada Vivek,
Additional Public Prosecutor

JUDGMENT

The appeal challenges the Judgment passed in S.C.No.54 of 201, holding the appellant guilty of the offences under Sections 417 and 376 (1) IPC and sentencing him to three months rigorous imprisonment and to pay a fine of Rs.1000/- and in default, to undergo one month simple imprisonment for the offence under Section 417 IPC and to undergo seven years rigorous

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imprisonment and to pay a fine of Rs.3,05,000/- and in default, to undergo three months simple imprisonment. The sentences were ordered to run concurrently.

2.(i) It is the case of the prosecution that the appellant and the victim were related to each other and had a romantic relationship since 2014; that on the promise of marriage, the appellant had sexual intercourse with the victim on several occasions; that the appellant thereafter refused to marry the victim; and hence, the victim had lodged a complaint for the aforesaid offences.

(ii) On the complaint (Ext.P1) given by the victim on 25.06.2020, an FIR (Ex.P10) was registered in Crime No.13 of 2020 for the offences under Section 417, 376(1) r/w 90 of IPC. The FIR was registered by PW11 and the investigation was taken up by PW12. PW12 examined the victim, subjected her to medical examination and after recording the statements of the other witnesses, filed the final report for the offences under Section 417 and 376 (1) IPC. The trial Court framed two charges for the offences under Section 417 and 376 (1) IPC and when questioned, the accused pleaded 'not guilty'.

(iii) Before the trial Court, the prosecution examined 12 witnesses and marked Exs.P1 to P14. When the appellant was questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against him, he denied the same. The appellant had examined two witnesses on his side.

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(iv) The trial Court, on the basis of the evidence adduced on the side of the prosecution, held the appellant guilty of the offences under Sections 417 and 376(i) IPC and sentenced him as stated above.

3.Heard Mr.M.Vignesh, the learned counsel appearing for the appellant/accused, and Ms. Sharada Vivek, learned Additional Public Prosecutor appearing for the respondent/State.

4.The learned counsel for the appellant would submit that admittedly, the victim and the appellant had a romantic relationship; that they were related to each other; that their marriage could not take place because their horoscope did not match; that the appellant did not have the intention to deceive the victim; that the complaint was lodged on 25.06.2020; that even thereafter, on 25.09.2020, the appellant and the victim had physical relationship; and that the evidence of the victim and the other witnesses would clearly show that the consent of the victim was not due to false representation but, due to mutual love and trust.

5.The learned Additional Public Prosecutor *per contra* submitted that the victim's evidence is clear and cogent inasmuch as it establishes that she was deceived and on the false promise of marriage, the appellant had obtained

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consent; that even assuming the offence under Section 376 is not made out, the offence under section 417 IPC is made out; and therefore, there is no infirmity whatsoever in the impugned Judgment.

6.As stated above, the prosecution had examined 12 witnesses. PW1 is the victim. PW2 is the mother of the victim. PW3 is the elder sister of the victim. PW4 is the recovery mahazar witness, who turned hostile. PW5 is the person, who was working with the victim and would corroborate the evidence of the victim as regards the relationship she had with the appellant. PW6 is the doctor, who had examined the victim and had issued the medical examination report Ext.P4. PW7 is the doctor, who had examined the appellant and issued potency certificate Ex.P6. PW8 is the uncle of the victim, who turned hostile. PW9 is the head clerk in the office of the Judicial Magistrate I, Bavani and speaks about the receipt of property seized during the course of investigation. PW10 is the proprietor of the lodge where the victim and appellant are said to have stayed on 25.09.2020. PW11 is the head constable, who registered the FIR and had sent it to the Judicial Magistrate. PW12 is the Inspector of Police, who conducted the investigation and filed the final report.

7.The prosecution case therefore, rests on the evidence of the victim/PW1, her mother PW2 and her elder sister PW3. PW2 and PW3 have deposed about the fact that the appellant deceived the victim and had sexual

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intercourse with the victim. They would also speak about the complaint lodged by the victim. Their evidence is hearsay and therefore, the prosecution case rests solely on the evidence of the victim/PW1. It is not in dispute that the appellant had sexual intercourse with the victim. It is also not in dispute that the victim was aged about 29 years at the time of lodging the complaint. The fact that the appellant and the victim were in a romantic relationship since 2014 is also not in dispute.

8.It is the victim's version as could be seen from her examination in chief and in her complaint that the appellant and the victim had sexual intercourse on several occasions from the year 2015. Though the victim would state that she had consented to have sexual intercourse with the appellant on the promise of marriage, her conduct belies her version. She had lodged the complaint on 25.06.2020 stating that the appellant had sexual intercourse with the victim last on 09.03.2020 and thereafter, he had planned to marry another lady. It is the case of the prosecution that even after lodging the complaint, the appellant and the victim met in a lodge on 25.09.2020 and had sexual intercourse. PW10, the lodge owner, had deposed that the appellant and the victim stayed in his lodge for three hours on 25.09.2020. It could be seen that the victim had sexual intercourse with the appellant even after lodging of the complaint on 25.09.2020. Thereafter, it appears that once again the appellant had attempted to marry someone else and the victim pursued her complaint.

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9.The deposition of the victim and her conduct in meeting the appellant after lodging the complaint suggest that the victim had consented to have sexual intercourse with the appellant not because he had made a false promise of marriage. The victim, who was aged 29 years at the time of lodging of the complaint, was aware of the consequences of her act and her evidence only suggests that her consent was due to mutual love and trust. It is a case of a relationship that turned sour. The evidence of the victim at best discloses that the appellant had committed breach of promise and in any case, there is nothing to suggest that there was deception at the inception. The relationship had started in the year 2014 and continued till 2020. As stated above, it continued even after the lodging of the complaint by the victim.

10.In this regard, it is useful to refer to the Judgment of this Court in ***Ameen Batcha Vs. State rep. by its Inspector of Police reported in (2025) 1 MLJ (Crl) 391*** wherein, this Court has held as follows;

> *"12.The evidence of PW1 therefore would make it clear that the physical relationship was not only due to the alleged promise made by the appellant to marry the victim. The victim was aged 24 years at the time of occurrence and she was aware of the consequences of her act and it cannot be said that the consent to have sexual intercourse is only on the false promise of marriage. The victim is not naive or gullible and she was capable of understanding the*

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consequences of her acts. Further, the complaint that the appellant committed sexual intercourse on false promise of marriage was made for the first time 25 months after the alleged occurrence. It this case, delay would certainly assume significance. The evidence of the other witnesses at best reveals that the appellant and the victim had a close relationship and therefore, those witnesses would be of no avail to the prosecution to establish the alleged false promise or that the consent was on the alleged false promise. The evidence of PW2 and PW3 at best would reveal a breach of promise and would not establish that the alleged deception said to have been made.

13....

14.The above observations would be applicable to the facts of this case. The evidence only reveals a consensual relationship for a prolonged period of time that turned sour and hence, the offence under Sections 376 and 417 of the IPC, are not made out on the facts of the case. It is also to be noted that the trial Court has disbelieved the prosecution version with regard to the offence under Sections 294(b) and 352 of the IPC. Therefore, this Court is of the view that the appellant cannot be convicted on the basis of such evidence."

11.The above observations would squarely apply to the facts of the present case as the evidence discloses that the consent was not given by the victim on the promise of marriage alone. Therefore, neither of the offences are made out as against the appellant and hence, the impugned Judgment is liable to be set aside.

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12.In the result, this Criminal Appeal is allowed, and the appellant is acquitted of the charges under Section 417 and 376(1) of IPC. The conviction and sentence passed in S.C.No.54 of 2021 on the file of the learned Sessions Judge, Mahalir Neethi Mandram (Fast Track Mahila Court, Erode) dated 10.05.2022 is set aside. The fine amount, if any, paid by the appellant shall be refunded. Bail bond, if any, executed shall stand discharged.

12-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

TSG

To

1.All Women Police Station,
Bhavani, Erode District
(Crime No.13/2020).

2.The Sessions Judge,
Mahalir Neethi Mandram,
Fast Track Mahila Court, Erode.

3.The Public Prosecutor,
Madras High Court.

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SUNDER MOHAN, J.

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CRL A No. 535 of 2022

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