



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-02-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL A No. 760 of 2023

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Chandru @ Chandrasekaran
S/o.Thangarasu,
Maruthuva Theru,
Vellipalayam,
Nagapattinam District.
Convict No. 16047,
Now Convict Prisoner,
Central Prison, Cuddalore.

...Appellant

Vs

The State rep. by
Inspector of Police,
Vellipalayam Police Station,
Nagapattinam District.
Cr.No.37/2016.

...Respondent

Prayer : Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code to set aside the order of conviction of sentence passed by the learned Sessions Judge, Fast Track Mahila Court, Nagapattinam in S.C.117/2016 dated 27.12.2016.

For Appellant:

Mr.R.Ganesh

For Respondent:

Mr.S.Raja Kumar
Additional Public Prosecutor



JUDGMENT

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This Criminal Appeal has been filed by the sole accused, challenging the Judgment dated 27.12.2016 passed in S.C.No.117 of 2016 by the learned Sessions Judge, Fast Track Mahila Court, Nagapattinam, convicting him for the offence under Section 376(2)(m) of the Indian Penal Code, 1860 (hereinafter referred to as “*the IPC*”) and sentencing him to undergo fourteen years of rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one year of simple imprisonment.

2(a). The case of the prosecution is that the appellant/accused, aged about 28 years at the time of the occurrence, had committed rape on the victim, aged about 80 years at the time of the occurrence, on 06.02.2016 at about 4.00 a.m., behind a temple situated in the village where both the appellant/accused and the victim were residing; and that the appellant had caused hurt to the victim and thereafter committed rape on the victim and thus committed the aforesaid offence.

(b). On a complaint [Ex.P2] given by P.W.2, the daughter of the victim, P.W.10, the Inspector of Police, registered an FIR [Ex.P9] in Crime No.37 of 2016 for the offences under Sections 324 and 376 of the IPC, and thereafter P.W.10 conducted the investigation and filed the Final Report against the



accused for the offence under Section 376(2)(l)(m) of the IPC before the learned Judicial Magistrate No.2, Nagapattinam, which was taken on file as P.R.C.No.17 of 2016.

(c) On the appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with, committed to the Court of Sessions, i.e., the Fast Track Mahila Court, Nagapattinam, and made over to the learned Sessions Judge, Fast Track Mahila Court, Nagapattinam, for trial, which was taken on file as S.C.No.117 of 2016. The Trial Court had framed the charge under Section 376(2)(m) of the IPC against the accused. The accused, in response to the charge, had pleaded guilty. Since the offence against the accused was serious in nature, the prosecution had examined all the witnesses to prove the charge against the appellant.

(d) To prove its case, the prosecution had examined 10 witnesses as P.W.1 to P.W.10 and marked 14 exhibits as Exs.P1 to P14, besides three material objects as M.O.1 to M.O.3. When the accused was questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against him, he accepted the same as true and further stated that he was inebriated at the time of the occurrence. The accused neither examined any witness nor marked any document on his side.

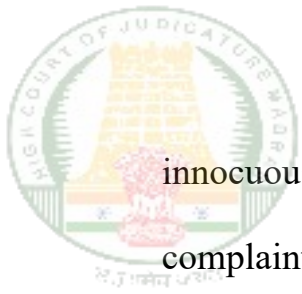


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(e) On appreciation of oral and documentary evidence, the Trial Court found the accused/appellant guilty of the offence under Section 376(2)(m) of the IPC and, accordingly, convicted and sentenced him as stated in the first paragraph of this Judgment. Hence, the accused has preferred the instant appeal challenging the said conviction and sentence.

3. Mr.R.Ganesh, the learned counsel for the appellant/accused, submitted that both P.W.1, victim, and P.W.2, the daughter of the victim, were not aware of the identity of the appellant/accused; that P.W.2, in her cross-examination, admitted that she had not lodged the complaint; that before the Doctor and in her 164 Cr.P.C. statement, the victim had stated that an unknown person had committed rape, which is contrary to her deposition in Court; that in light of the above infirmities, the Trial Court ought not to have found the appellant guilty of the offence; and that in any case, the sentence imposed on the appellant is disproportionate and prayed for leniency in the sentence.

4. Mr.S.Raja Kumar, the learned Additional Public Prosecutor, appearing for the respondent, *per contra*, submitted that though the entries made in the Accident Register [Ex.P8] would not be fatal to the case of the prosecution, P.W.2, daughter of the victim, had named the appellant in the FIR; that her



innocuous admission in the cross-examination that her mother gave the complaint would not render the prosecution case doubtful; that P.W.1, the victim, had deposed in her evidence that she knew the appellant even before the occurrence as they both resided in the same street; and that the infirmities pointed out by the appellant/accused would lose significance in the light of the appellant/accused pleading guilty to the charge.

5. As stated above, the prosecution examined 10 witnesses. P.W.1 is the victim, aged about 80 years. P.W.2 is the daughter of the victim and *de-facto* complainant. P.W.3 is in charge of the temple behind which the occurrence had taken place. He had signed as a witness in the Observation Mahazar [Ex.P3] and the Seizure Mahazar [Ex.P4]. P.W.4 is a hearsay witness and belongs to the same village. P.W.5 is the learned Magistrate who had recorded the 164(5) Cr.P.C. statement of the victim, P.W.1. P.W.6 is the Head Constable, who had assisted the Investigating Officer. P.W.7 is the witness to the confession statement of the accused, and the signature of the witness in the confession is marked as Ex.P6. P.W.8 is the Doctor, who had examined the appellant/accused and had issued Ex.P7, the potency certificate. P.W.9 is the Doctor, who had examined the victim and made entries in the Accident Register, Ex.P8, and had opined that the victim was subjected to sexual assault. P.W.10 is the investigating officer who filed the final report.



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6. The fact that the appellant/accused and the victim belonged to the same village is spoken to by P.W.3 besides P.W.1 and P.W.2. P.W.2 in her complaint has referred to the appellant as the accused. Though P.W.2 would state that the contents of the complaint were dictated by her mother and she had signed it, which is contrary to the evidence of P.W.1 and to the admission made by the investigating officer as regards the manner in which the complaint was lodged. This Court is of the view that the said discrepancy would hardly be of any consequence in light of the cogent evidence of P.W.1 in her deposition.

7. In a case of this nature, the discrepancy pointed out by the learned counsel for the appellant/accused would not render the victim's evidence unreliable, as this Court finds that the victim's evidence inspires confidence. Though it is the case of the prosecution that the victim was aged about 80 years, the victim herself would state that her age was about 70 years at the time of her deposition in Court. The victim had identified the appellant as the accused in her deposition. She had also stated that she knew the appellant. The entries made in the Accident Register [Ex.P8] that an unknown person had assaulted the victim would not in any way affect the evidence of the victim in the facts and circumstances of this case. Though it is the case of the appellant/accused



that the victim had not stated the name of the appellant in the 164 (5) Cr.P.C. statement, it is seen that the victim has not been confronted with her statement under 164 Cr.P.C. in the cross-examination. Further, the victim, P.W.1, had specifically answered to a Court question, which reads as follows:

நீதிமன்ற கேள்வி ஆஜர் எதிரியை சம்பவத்திற்கு முன்பு தெரியுமா?
பதில் ஆஜர் எதிரி எங்கள் தெரு பையன். அதனால்
சம்பவத்திற்கு முன்பு ஆஜர் எதிரியை தெரியும்.

8. That apart, the Doctor, P.W.9, who had examined the victim and had made entries in the Accident Register, Ex.P8, had specifically observed in the final opinion that the victim would have been subjected to violent sexual intercourse. The Doctor had also opined that *spermatozoa* was seen in the smear.

9. In the light of the above evidence, this Court is of the view that the impugned Judgment convicting the appellant for the offence under Section 376(2)(m) of the IPC, cannot be faulted. As stated above, the appellant pleaded guilty to the charge and also admitted the guilt in the Section 313 Cr.P.C., questioning. However, considering the period of incarceration and the facts and circumstances of the case, this Court is of the view that the ends of justice would be met if the appellant is sentenced to RI for a term of 10 years and to



pay a fine of Rs.1,000/- and in default to suffer 3 months of SI. Accordingly, it is ordered as follows:

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(i) The conviction of the appellant for the offence under Section 376(2)(m) of the IPC, by the learned Sessions Judge, Fast Track Mahila Court, Nagapattinam, vide Judgment dated 27.12.2016 in S.C.No.117 of 2016, is confirmed.

(ii) However, the sentence imposed on the appellant, i.e., rigorous imprisonment for 14 years is reduced to RI for 10 years and to pay a fine of Rs.1,000/- and in default, to suffer 3 months of SI.

(iii) The fine amount already paid, if any, shall be adjusted against the fine amount imposed now.

(iv) The period of sentence already undergone by the appellant shall be set off under Section 428 Cr.P.C.

10. With the above observations, this Criminal Appeal is disposed of.

19-02-2026

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

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To

1. The Sessions Judge,
Fast Track Mahila Court,
Nagapattinam.
2. The Inspector of Police,
Vellipalayam Police Station,
Nagapattinam District.
3. The Superintendent,
Central Prison,
Cuddalore.
4. The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.



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CRL A No.760 of 2



SUNDER MOHAN, J.

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CRL A No. 760 of 2023

19-02-2026