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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04-11-2026

CORAM

THE HON'BLE MR.JUSTICE D.LINGESWARAN

Crl.A(MD) No.36 of 2020

CNR:{HCMD010013492020}

Rajasooryan

..Appellant

Vs

The Inspector of Police
Ramanathapuram Town Police Station,
Crime No.132 of 2012.

..Respondent

PRAYER: This Criminal Appeal is filed under Section 374(2) of Cr.P.C., to admit the appeal preferred by this appellant/accused and call for the records from the Trial Court in S.C.No.127 of 2014 on the file of the learned Sessions Judge, Fast Track Mahila Court, Ramanathapuram and set aside the conviction and sentence dated 08.11.2019, imposed on the appellant.

For Appellant :Mr.N.Ananthapadmanabhan
for M/s.APN Law Associates

For Respondent :Mr.G.Ganesh Kumar
Government Advocate (Crl.Side)

JUDGMENT

This Criminal Appeal is filed challenging the judgment passed against the appellant in S.C.No.127 of 2014 by the learned Sessions Judge, Fast Track Mahila Court, Ramanathapuram dated 08.11.2019.

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2. The case of the prosecution is that the victim, aged about 23 years, is an auditory and speech-impaired person. On 09.04.2012, at about 13.00 hours, the appellant forcibly took the victim to a nearby hut and committed rape on her. The occurrence was allegedly witnessed by the mother of the victim and two others, and on their arrival, the appellant ran away from the scene. A First Information was lodged immediately with the respondent Police, who registered a case on the same day, arrested the accused, investigated the case, collected evidence and laid a final report against him before the learned Judicial Magistrate No.1, Ramanathapuram.

3. Following due process, the learned Magistrate committed the case to the learned Principal Sessions Judge, Ramanathapuram, who made it over to the Fast Track Mahila Court, Ramanathapuram, for trial. The prosecution examined 13 witnesses and exhibited 12 documents and two material objects. The defence adduced neither oral nor documentary evidence. The learned Trial Judge, on a consideration of the entire evidence on record, concluded that the offences under Sections 450 and 376 of IPC were proved by the prosecution against the accused beyond reasonable doubt. The appellant was convicted and sentenced as follows:

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Section of Law	Sentence of Imprisonment	Fine
450 of IPC	Seven years of Rigorous Imprisonment	Rs.2,000/-, in default to undergo three months Simple Imprisonment
376 of IPC	Ten years of Simple Imprisonment	Rs.3,000/-, in default to undergo three months Simple Imprisonment

The sentences were ordered to run concurrently. Aggrieved by the conviction and sentence, the appellant has filed the present appeal.

4. Heard both sides.

Submissions of the parties

5. The learned counsel for the appellant submitted that, of the three alleged eyewitnesses, two turned hostile. The mother, though she supported the case of the prosecution, did not specifically speak about the act of sexual intercourse. The statement of PW3, who is an auditory- and speech-impaired person, was not recorded immediately by the Police. It was recorded with

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the help of a special educator only after one and a half years. Before this Court, the learned counsel submitted that the evidence of PW3 did not inspire confidence and was not cogent. PW3 is an illiterate person, and her deposition was not correctly interpreted by the Special Educator, as the witness herself had not received any special education was the further submission of the learned Senior Counsel.

6. The learned counsel further pointed out inconsistencies in the evidence of PW3, who stated that her mother came back home only at 8.00 PM in the night, whereas the occurrence is alleged to have taken place at 13.00 hours in the afternoon. It was also pointed out that the evidence of PW3 was not supported by the medical evidence. The doctor (PW9), who examined the victim on the day after the occurrence, stated that she did not notice any injury on the body of PW3. No injury was noted on the private parts, and the doctor specifically ruled out the possibility of forcible penetrative sexual assault. Though the doctor noted that the hymen was torn, she did not notice any external injuries and ruled out the possibility of recent sexual intercourse. Pointing out these inconsistencies in the prosecution case, the learned Senior Counsel submitted that it was a case of false implication and prayed for acquittal.

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7. Per contra, the learned Government Advocate (Crl.Side) argued that the victim as well as her mother had clearly spoken about the occurrence and supported the case of the prosecution. The attention of this Court was drawn to the fact that PW3, the victim, was cross-examined after a period of four years, and that it was only during the further cross-examination that she made a contrary statement regarding the time of arrival of her mother. He therefore prayed for upholding the conviction and sentence awarded by the Trial Court.

Points for determination and the governing principles

8. This Court has carefully considered the rival submissions. The question for determination is whether the prosecution has proved, beyond reasonable doubt, that the appellant committed house-trespass and rape on the victim, as found by the Trial Court. This Court, as the first appellate court, is bound to reappraise the evidence on record for itself.

9. The law on the point is well settled. A conviction for rape can rest on the sole testimony of the prosecutrix if it is found to be reliable and to inspire confidence, without any corroboration. Where her testimony is not of that quality, the Court must look for independent corroboration from the

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surrounding circumstances, the medical evidence or other reliable evidence. The absence of injuries or of semen is not by itself fatal to the prosecution case where the oral testimony is trustworthy, because penetration, however slight, is sufficient to constitute the offence. But where the oral evidence is itself doubtful, the absence of any medical or forensic corroboration assumes decisive significance. The prosecution must prove its case beyond reasonable doubt, and where two views are reasonably possible, the benefit of doubt must go to the accused.

The alleged eyewitnesses

10. The victim (PW3) was 23 years old at the time of the occurrence. She is an auditory- and speech-impaired person, and she had no intellectual disability. The occurrence is alleged to have happened at 13.00 hours on 09.04.2012 in a small hut belonging to one Rakku Thevar. PW1, the mother of the victim, stated that she, along with two others (PW4 and PW5), witnessed the occurrence. PW4 and PW5, however, did not support the case of the prosecution and turned hostile. Nothing effective was elicited from them in cross-examination, and their evidence is therefore of no use to the prosecution. The prosecution case of three eyewitnesses is thus reduced to the evidence of PW1 alone.

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11. The evidence of PW1 is itself unsatisfactory. She did not specifically speak about the act of sexual intercourse. More importantly, PW3 stated in her cross-examination that her mother came back home only at night, at 8.00 PM. If this statement is accepted, PW1 could not have been present at the scene at 13.00 hours and could not have witnessed the occurrence. If PW1's version is accepted, the sworn statement of PW3 is contradicted. In either event, the two principal witnesses of the prosecution contradict each other on whether the occurrence was witnessed at all, and this goes to the root of the prosecution case.

12. The submission that PW3 made this statement only during the further cross-examination, four years after her chief examination, does not remove the contradiction. The statement forms part of the sworn testimony of the prosecutrix herself, who is the principal witness of the prosecution, and it relates to a fact central to the case, namely, the presence of the mother as an eyewitness. This Court cannot disregard it.

The medical and forensic evidence

13. PW1 stated that she handed over the blood-stained dress materials of the victim to the Police. The forensic reports in Ex.P3 to Ex.P5 do not

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bear this out. No spermatozoa or semen was detected in any of the items examined. Ex.P5 specifically states that no semen was detected on the petticoat or on the nighty worn by the victim at the time of the occurrence. PW7, Scientific Officer Vijayendiran, deposed that spermatozoa were found in none of the items forensically examined. Although the blood groups of the victim and the appellant were determined from the control blood samples, no blood was detected on the dress materials recovered from the victim. It is true that the petticoat and the nighty were not analysed for the presence of blood, and that omission is a lapse in the investigation. But the burden is on the prosecution, and this Court cannot fill that gap by assumption. The only forensic evidence on record does not corroborate PW1's statement that the dress was blood-stained, and her version is therefore unsupported on this aspect as well. The doctor, Dr.Ramaneeswari (PW9), who examined the victim on the day after the occurrence, stated clearly that the victim did not sustain any injury and that no external or internal injuries were found on her body. The pubic hair of the victim was combed, but no foreign particles were found, according to PW9. The doctor specifically ruled out the possibility of penetrative sexual assault. The torn hymen noted by PW9 does not by itself prove forcible intercourse on the date alleged, particularly when no injury was found and the doctor herself excluded penetrative sexual assault.

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14. The prosecution alleges a forcible assault on a 23-year-old woman. Yet neither the victim nor the accused bore any injury. The medical examination of the accused revealed no injury on his person, and only his potency was tested. The hut, which was used as a kitchen, showed no sign of struggle either to the Police or to PW1, though the utensils and other items would have been scattered around if the victim had been forcibly dragged into it. The absence of any injury on either person and of any disturbance in the hut is inconsistent with the case of forcible sexual assault and, without any other explanation, raises a genuine doubt.

15. In short, the medical and forensic evidence does not support the oral evidence at any point. Its absence would not matter if the oral evidence were otherwise trustworthy, but, as shown below, it is not.

The evidence of the victim (PW3)

16. The victim cannot be disbelieved merely because she is auditory- and speech-impaired. Under Section 119 of the Indian Evidence Act, a witness who is unable to speak may give evidence by writing or signs, and such evidence is deemed to be oral evidence. Her testimony is therefore entitled to the same weight as that of any other witness, and a conviction can

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be based on it alone if it is found to be trustworthy. The question is whether it is so.

17. Several features of her evidence prevent this Court from so holding. First, her statement was not recorded by the Investigating Officer immediately. It was recorded only after one and a half years, with the help of a special educator. She was the only person who could speak to the act itself, and the prosecution has not offered any explanation before this Court for this delay in recording her statement. Second, where evidence is given through an interpreter, the reliability of the communication is essential. The contention that the Special Educator did not correctly interpret her deposition cannot be brushed aside lightly where the witness herself had not received any special education. Third, on a careful perusal of her evidence, for most of the questions she could not give rational answers. Whatever the cause, the result is that her evidence as recorded does not allow this Court to say with certainty what she meant to convey on the crucial aspects. Fourth, her own statement that her mother returned home only at 8.00 PM contradicts the prosecution case on a material point, as already discussed.

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18. Her evidence, therefore, does not inspire the confidence required to sustain a conviction on her sole testimony. As explained above, there is also no reliable corroboration from the eyewitnesses, the medical evidence or the forensic evidence.

Conclusion on the charges

19. The First Information was lodged promptly, which counts in favour of the prosecution. But promptness alone cannot make up for the unreliability of the substance of the evidence. Taking the evidence as a whole, the two alleged eyewitnesses turned hostile, the third is contradicted by the prosecutrix herself, the medical and forensic evidence offers no corroboration, there was no sign of struggle or injury, and the evidence of the prosecutrix does not inspire confidence. A conjoint reading of the evidence of PW1 and PW3, coupled with the medical evidence, shows that the possibility of false implication cannot be ruled out.

20. The conviction under Section 450 of IPC depends on proof that the appellant entered the hut in order to commit rape, an offence punishable with imprisonment for life. As the prosecution has failed to prove the alleged sexual assault, and there is no independent reliable evidence of the

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entry or of the intention with which it was made, the conviction under Section 450 of IPC cannot stand on its own.

21. Considering all these aspects, this Court is of the view that there are serious doubts in the case of the prosecution. The appellant is entitled to the benefit of those doubts, and this Court is unable to uphold the conviction and sentence.

Result

22. Accordingly, the appellant is acquitted of both charges, under Sections 450 and 376 of IPC. The judgment passed by the learned Sessions Judge, Fast Track Mahila Court, Ramanathapuram, in S.C.No.127 of 2014, dated 08.11.2019, as against the appellant, is set aside.

23. In the result, this Criminal Appeal is allowed. The bail bond executed by the appellant is discharged, and the fine amount already paid is ordered to be refunded to the appellant.

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

1. The Inspector of Police
   Ramanathapuram Town Police Station.
   Crime No.132 of 2012

2. The Additional Public Prosecutor
   Madurai Bench of Madras High Court
   Madurai

Copy To :
Section Officer (VR Section)
Madurai Bench of Madras High Court

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D.LINGESWARAN, J.

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