
(1998) 08 MAD CK 0109
In the Madras High Court
Case No : Criminal R.C. No. 486 of 1995

Mrs. Juli John

APPELLANT

Vs

Raman and Another

RESPONDENT

Date of Decision : 18-08-1998

Acts Referred:

Penal Code, 1860 (IPC) — Section 354

Citation : (1999) CriLJ 2174

Hon'ble Judges : M. Karpagavinayagam, J

Bench : Single Bench

Advocate : S. Ashok Kumar, for the Appellant; R. Subramanian and C.M. Gunsekaran, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

M. Karpagavinayagam, J.—Mrs. Juli John, the petitioner herein, challenging the judgment acquitting the first respondent in C.C. No. 185/90 on the file of the IV Metropolitan Magistrate, Said pet, Madras in respect of the offence u/s 354, I.P.C. has filed this Revision.

2. The case of the prosecution is as follows: The petitioner was doing her M. Phil, course in Botany at the Centre for Advanced Studies, Guindy, Campus, University of Madras. Dr. N. Raman, the first respondent was the Lecturer in the Botany department and he was her guide. On 12-9-89, she went to the room of the first respondent at about 4:00 p.m. A seminar for M. Phil students was scheduled to be held on 18-9-89. Before that, the persons had to do dissertation work. Therefore, to discuss about the work of the seminar, the complainant/the petitioner herein, went to his room. At that time, in the room the complainant and the accused were alone there. After discussion for a while, suddenly Dr. Raman misbehaved with the complainant by catching hold of her arms. After she got herself released, she warned him stating that she would not like all these things and asking him not to do it any more. Then, he wanted her to come on the next day for completion of the discussion. Next day, i.e., on 13-9-89, she

went to his room at 3:00 p.m. This time Dr. Raman offered her a seat and discussed the seminar matters. After sometime, he again caught hold of her hand. Immediately, the complainant pushed off his hand and released herself from his grip and ran out of the room leaving her slippers in the room itself. Outside the room she met Mubarak Ali (P. W. 2), a research student and informed him about the incident. Then on his advice, she met the Professor Dr. Indira Kalyanasundaram and told her everything. She consoled her and directed her to report the same to the Director, who was not available then, since he was not in the station. The Director came from Delhi on 16-9-89 and thereafter, she complained about the conduct of the first respondent to him and for that, there was no response. Therefore on 19-9-89, the students gave a written memorandum to the University Vice-Chancellor and the Government. Thereafter, an enquiry was conducted. Since that enquiry was not conducted properly, the petitioner gave a complaint to the police against the first respondent on 19-12-89. Then, the police registered a case and investigated the matter and filed the charge-sheet.

3. In the trial Court, on behalf of the prosecution, P.W. 1 to P.W. 8 were examined and Ex. P-1 to Ex. P-4 were marked. On the side of defence, Ex. D-1 to Ex. D-3 were marked.

4. On conclusion of trial, the trial Court acquitted the first respondent, as the offence was not proved beyond reasonable doubt. Hence, this Revision.

5. I have heard the counsel for the parties. After going through the judgment and the records, I shall point out at the outset, that the learned IV Metropolitan Magistrate, Saidapet, has discussed about the various materials, which are not actually available in this case.

6. Furthermore, every one of the reasons given in the impugned judgment by the learned Metropolitan Magistrate, in my view, is not proper. The appreciation of evidence has also not been done in the proper perspective. The entire reading of the judgment would make it clear that the learned Magistrate has entertained a wrong impression that the present complaint was given by the petitioner against the first respondent with the false accusation at the instance of P.W. 7, the Reader in the Botany Department. To have such an impression, there is no admissible material available in this case.

7. The trial Court has fully relied upon the enquiry report submitted by the enquiry officer of the University. Though this voluminous report was marked through an official of the University, the contents of the report have not been spoken to by any witness. Moreover, neither the Enquiry Officer nor the witnesses on the side of the University were examined. When such being the case, it is highly unfortunate to rely upon the enquiry report to hastily hold that P.W. 1 's complaint may not be a true one.

8. One of the grounds mentioned in the judgment for acquitting the first respondent is that since P.W. 1, the petitioner herein, would merely state that the

accused had only touched her hands there was no material to show that he misbehaved with her. This observation by the learned Magistrate is quite unfortunate.

9. In the F.I.R., she would specifically state : "He misbehaved with me by catching hold of my arms and I warned him not to do it. On 13-9-89 at about 3:00 p.m. at his room, I went to discuss with him again the seminar matters, again he held my hands and I forced myself from his grip and ran out of the room crying and leaving the slippers behind". In consonance with the averments in the complainant, P.W. 1 would state in the evidence that the first respondent/accused caught hold of her hands on 12-9-89 and 13-9-89. In fact, she would state in the deposition as follows;

I went to his room and had a discussion with him for a while. There he caught hold of my right hand. Immediately I got my self released. I warned him and stated that I did not like all these things. Then he wanted me to come on he next day for the discussion. So, I came off from his room. On the next day, i.e., 13-9-89, I went to his room at 3:00 p.m. He offered me a seat and started discussing the Seminar matters. After some time, he again caught hold of my hand. Immediately I pushed off his hand. Immediately I ran out of the room, since I did not want to stay there any longer.

10. All the other witnesses also would state that she came out of the room, even without the slippers. She told them weeping about what had happened inside the room. This is not a one day affair. On both occasions it had happened. Furthermore, even on the first day, she warned him not to do like that. The complete reading of the evidence of P.W. 1 would make it clear that such a thing would have happened.

11. The delay in giving the complaint cannot be said to be the valid ground for acquittal. The delay has been properly explained by P.W. 1 and others. Of course, it is true that there is no other evidence to corroborate the evidence regarding what had happened inside the room. But, it must be noted that when the said incident had taken place inside the room, nobody was available. Therefore, the Court is to analyse the credibility of P.W. 1 alone.

12. It was stated that out of professional jealousy, P.W. 1 was set up by P.W. 7 to give such a false complaint. This may not be true because the document Ex. P-2 which is the certificate given by the first respondent/accused to the petitioner on 7-9-89 recommending for a job for her stating that she was good at her work. There was no need for P.W. 1 to give a complaint against the first respondent u/s 354, I.P.C. in regard to the incident that took place on 12-9-89 and 13-9-89, especially when she was given a recommendation certificate by the accused on 7-9-89.

13. Therefore, none of the grounds for acquitting the first respondent/accused, in my view, can not be accepted. Moreover, it is highly unreasonable and irresponsible to simply make a sweeping observation against P.W. 1, as if she

filed a false complaint against the first respondent. In my view, there is no material whatsoever to arrive at such a conclusion.

14. However, I may state that though the appreciation of evidence is not proper in this case, since nearly 9 years elapsed after the occurrence and since the petitioner got married and settled at Kerala after finishing her studies, I do not think it appropriate to be remanding the matter to the trial Court to consider afresh. Moreover, it is represented by the counsel for respondent that though the suit for damage against the petitioner was filed by the first respondent after the impugned judgment of acquittal, now the first respondent decided to withdraw the suit filed against the petitioner herein.

15. As held by this Court and the Apex Court, mere misappreciation of evidence alone would not be a ground to set aside the judgment of acquittal in a revision, that too, by a private party, in the absence of any appeal filed against it.

16. Under these circumstances, I do not deem it fit to set aside the impugned judgment and to remand the matter, even though the reasonings for acquittal are not correct.

17. In the result, the Revision is dismissed.