
(2010) 08 MAD CK 0416
In the Madras High Court
Case No : Criminal A. (MD) No. 37 of 2005

Ramesh	Vs	APPELLANT
The State		RESPONDENT

Date of Decision : 27-08-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 376, 450

Citation : (2010) 08 MAD CK 0416

Hon'ble Judges : C.S. Karnan, J

Bench : Single Bench

Advocate : G.R. Edmund, for the Appellant; P. Rajendran, Government Advocate (Crl. Side), for the Respondent

Final Decision : Allowed

Judgement

C.S. Karnan, J.—The appellant/accused has filed the Criminal appeal against the conviction sentence imposed by the learned Assistant Sessions Judge, Tuticorin, in S.C. No. 130 of 2004 on 09.12.2004 sentencing the appellant to undergo Rigorous Imprisonment for 10 years and to pay a fine of Rs. 1000/- in default to undergo Rigorous Imprisonment for one year, for offence u/s 450 of I.P.C. and also sentencing him to undergo Rigorous Imprisonment for 10 years and to pay a fine of Rs. 2000/- in default to undergo Rigorous Imprisonment for two years for offence u/s 376 of I.P.C and both these sentences to run concurrently, and to set aside the sentence and conviction imposed by the trial Court on 09.12.2004 and allow this appeal.

2. The prosecution case is as follow:

2.1. On 20.01.2003 at around 11.00 a.m. the accused rapped the victim namely, Pachiammal aged about 16 years at her residence, Pullavalli East street. The incident was informed to the Inspector of Police registered a Criminal Case in Crime No. 18 of 2003 and alleged offence u/s 376 and 450 of I.P.C. The case was tried before the Assistant Sessions Judge, Tuticorin in S.C. No. 130 of 2004.

3. On the prosecution side 12 witnesses were examined, 17 documents were marked, 7 material objects were produced. After a full-fledged trial the accused was convicted u/s 450 and 376 of I.P.C. and a sentence imposed on him 10 years Rigorous Imprisonment and fine amount of Rs. 1,000/- and Anr. 10 years and fine amount of Rs. 2,000/-.

4. Aggrieved by the conviction sentence imposed by the learned Assistant Sessions Judge, Tuticorin, in S.C. No. 130 of 2004 on 09.12.2004, the appeal has been filed by the accused. The said appeal was admitted on 25.01.2005, thereafter the appeal has been postponed from time to time for final disposal. Finally the appeal came on 19.08.2010 on that day the accused and the victim, namely, Pachiammal appeared along with the learned Counsel for the appellant and the learned Public Prosecutor for the State and informed the Court stating that, they had married as per Hindu Custom and rites and the same was registered on the file of the marriage registered office, Trichendur. The marriage certificate bearing registration No. 22 of 2009. The same was produced before this Court,(Xerox copy), besides marriage photo also submitted to this Court. The accused/appellant has also produced bonafide certificate which has been issued by the Village Administrative Officer, the certificate disclosing that the appellant and victim are living as husband and wife in this village and under the same shelter. The marriage was solemnized at the Subramaniam Temple.

5. The victims freely expressed to the Court stating that she and her husband, the appellant herein are leading a happy married life, hence, she also pleaded that the appeal may be allowed and set aside the conviction and sentence imposed on the appellant/ her husband. Learned Counsels also are in agreement with this union.

6. Considering the learned Counsels submissions, the marriage photograph of the appellant and victim, bonafide certificate of the Village Administrative Officer, copy of the marriage registration certificate, and the sharing of the couple, this Court sets aside the conviction sentence imposed by the learned Assistant Sessions Judge, Tuticorin, in S.C. No. 130 of 2004 dated 09.12.2004, sentencing the appellant to undergo Rigorous Imprisonment for 10 years and to pay a fine of Rs. 1000/- in default to undergo Rigorous Imprisonment for one year for offence u/s 450 of I.P.C. and also sentencing him to undergo Rigorous Imprisonment for 10 years and to pay a fine of Rs. 2000/- in default to undergo Rigorous Imprisonment for two years, for offence u/s 376 of I.P.C.

7. In the result the Criminal Appeal No. 37 of 2005 is allowed and consequently the conviction and sentence imposed by the learned Assistant Sessions Judge, Tuticorin, in S.C. No. 130 of 2004 dated 09.12.2004 is set aside. Connected miscellaneous petitions are closed.