

CrI.A(MD)No.117 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.07.2025

CORAM:

THE HON'BLE DR.JUSTICE R.N.MANJULA

CrI.A(MD)No.117 of 2018

Murugesan

... Petitioner

Vs

The Inspector of Police,,
Samayanallur Circle,
Sholavanthan
Police Station, Madurai District.
(Crime No.116 of 2015).

... Respondent

Prayer: This Criminal Appeal Case filed under Section 374 of Cr.P.C to call for records in Spl.S.C.No.25 of 2016, dated 15.02.2018 on the file of the learned III Additional District and Sessions Judge (PCR), Madurai and set aside the same.

For Appellant : Mr. T.Mohan

For Respondent : Mr.K.Gnanasekaran
Government Advocate (CrI.Side)



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JUDGMENT

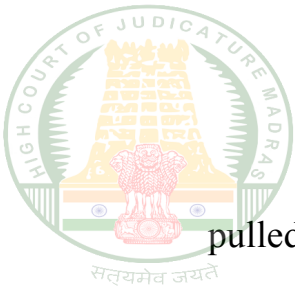
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The present Criminal Appeal has been filed challenging the Judgment of the learned III Additional District and Sessions Judge, Madurai, dated 15.02.2018 made in Spl.S.C.No.25 of 2016.

2.The appellant is the sole accused, who has been convicted and sentenced in the following manner:

S. No	Provisions under which convicted	Sentence of imprisonment	Fine amount
1	354 IPC	3 years rigorous imprisonment	Rs.1,000/- in default to undergo 3 months simple imprisonment

3.The case of prosecution as it appears from the records is that the defacto complainant and the victim woman belonging to schedule caste community. The accused belong to Hindu Maravar community and he knew about the caste of the victim. The victim is an unmarried woman and she is a mentally retarded person. Hence, she was not married. She used to take the cattle for grazing. On 04.05.2015, when she was grazing the cattle near Nedunkulam Channel, the accused came there with a bad intention and abused her by telling her caste and



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pulled her hands. The mother of the victim, PW1, who came to know about the occurrence, has lodged the complaint.

4.On receiving the complaint from the mother of victim, a case in Cr.No.116 of 2015 has been registered. After completing the investigation, charge sheet has been filed against the accused before the District Munsif cum Judicial Magistrate Court, Vadipatti and the same was taken on file as PRC No.39 of 2015. After observing the legal mandates, the case was committed to the learned Principal Sessions Judge, Madurai. Subsequently, it was made over to the learned III Additional District and Sessions Judge, Madurai.

5.The learned trial Judge framed charges against the accused under Sections 3(1)(x) of SC/ST Act and 354 IPC and questioned him. As the accused denied the offence and claimed to be tried, trial was conducted.

6.On the side of prosecution, 9 witnesses were examined as PW1 to PW9 and 9 documents were marked as Ex.P.1 to Ex.P.9. After observing the legal mandates and concluding the trial and on



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appreciating the evidence, the learned trial Judge had acquitted the accused under Section 3(1)(x), 3(1)(xi) of SC/ST Act and convicted and sentenced the accused for the offence under Section 354 IPC by imposing the punishment as stated *supra*.

7. Aggrieved over that, the accused has filed this appeal.

8. The learned counsel for the appellant submitted that nothing is available on the record to show that the accused has abused the victim or pulled her hands with any bad intention to outrage her modesty. The evidence of eye witness, who was examined as PW2, contradicts her own version. The victim girl was not examined as a witness. The learned trial Judge failed to give the benefit of doubt to the accused.

9. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent police categorically submitted that the victim woman is a mentally retarded person, who could not speak before the Court and on seeing her disability, the Court did not proceed to enquire the victim woman. The Court had proceeded to examine the other



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witnesses. Since the evidence of PW2 is reliable, the trial Court has convicted the accused for the offence under section 354 IPC. The trial Judge after appreciating the oral and documentary evidence in a right perspective, convicted the accused and therefore, no interference is warranted by this Court.

10.I have given my anxious consideration to the submissions made on either side and carefully perused the records.

11.PW1, the mother of the victim woman, has given the complaint, Ex.P1 on 04.05.2015. In the complaint, PW1 has stated that on the day of occurrence, her daughter went for grazing and at about 1.30p.m., she came by crying. When PW1 enquired, she could not tell anything and hence PW1 presumed that something went wrong for the cattle and rushed to see them. At that time, PW2 intercepted and told that the accused had pulled the hands of the victim and the victim screamed and on hearing her noise PW2 went to the spot and on seeing her, the accused ran away.



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12.The complaint, Ex.P.1 reveals that PW1 knew the occurrence only through PW2. But PW2 has stated in her evidence that she did not tell the occurrence to anyone, but simply brought the victim to her mother. PW2 has further stated that she shouted at the accused, but this was not stated in the complaint.

13.On a perusal of evidence of PW2, it is seen that the accused had beaten up the victim and then pulled her hands. In the complaint given by PW1, the act of beating is not mentioned. During the cross examination of PW2, she has stated that before she reached the place of occurrence, the accused went away. In the earlier part of her cross examination, she has stated that when she saw the accused, he was beating up the victim. The above evidence of PW2 is contradictory and conviction of accused on the basis of evidence of PW2 without any corroboration, is not correct.

14.PW1 and PW3, who are the mother and brother of victim, did not witness the occurrence. Hence, their evidence cannot help the prosecution case.



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15.The learned trial judge has recorded that the victim cannot be examined, as she was not able to answer to the question put by the Court.

16.Another witness was examined as PW8, who is said to have seen the victim running by crying on the alleged day of occurrence. PW8 has stated that she had gone to the house of accused and reported the occurrence to his mother.

17.Though PW8 has stated that she had seen the occurrence, her presence was not mentioned by PW2. So the evidence of the above witness is not only mutually contradictory, but also too fragile, to be acted upon.

18.The learned counsel for the appellant would submit that even if the act of accused pulling the hands of victim is true, it will not amount to outrage her modesty, unless the accused had the intention of outraging her modesty. In this regard, he relied on the decision of Hon'ble *Supreme Court* in *Naresh Aneja @ Naresh Kumar Aneja Vs State of Uttar Pradesh* reported in *2025(2) SCC 604*, wherein, it is held as



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follows.

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“20. A bare perusal of [Section 354](#), IPC reveals that for it to apply, the offence must be committed against a woman; criminal force must be applied against her; and such application of force must be with the intent to outrage her modesty. [See: [Raju Pandurang Mahale v. State of Maharashtra](#)¹⁰]

21. Criminal force is defined in [Section 350](#) IPC¹¹, however, what exactly does modesty means, which is an essential aspect for this Section to apply, has not been defined so as to constitute an offence [u/s 354](#) IPC. Any discussion on this Section is incomplete without reference to [Rupan Deol Bajaj](#) (supra) wherein the Learned Judges observed:

“14. Since the word ‘modesty’ has not been defined in the Penal Code, 1860 we may profitably look into its dictionary meaning. According to Shorter Oxford English Dictionary (3rd Edn.) modesty is the quality of being modest and in relation to woman means “womanly propriety of behaviour; scrupulous chastity of thought, speech and conduct”.



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The word 'modest' in relation to woman is defined in the above dictionary as "decorous in manner and conduct; not forward or lewd; shamefast". Webster's Third New International Dictionary of the English Language defines modesty as "freedom from coarseness, indelicacy or indecency; a regard for propriety in dress, speech or conduct". In the Oxford English Dictionary (1933 Edn.) the meaning of the word 'modesty' is given as "womanly propriety of behaviour; scrupulous chastity of thought, speech and conduct (in man or woman); reserve or sense of shame proceeding from instinctive aversion to impure or coarse suggestions".

15. ... From the above dictionary meaning of 'modesty' and the interpretation given to that word by this Court in Major Singh case [AIR 1967 SC 63 : 1967 Cri LJ 1 : 1966 Supp SCR 286] it appears to us that the ultimate test for ascertaining whether modesty has been outraged is the action of the offender such as could be perceived as one which is capable of shocking the sense of



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decency of a woman”

22.While we hold the above observations as also the discussion made in Major Singh (supra) in the highest esteem and regard, it must not escape us that the observations were made in the societal context and milieu of that time and its import today should be interpreted in our present context. Reference in this regard may be made to observations by Bhat, J in [Attorney General v. Satish case](#),

“66. ... These require an element of application of physical force, to women. The expression “modesty” was another limitation as older decisions show that such a state was associated with decorousness [[Rupan Deol Bajaj v. Kanwar Pal Singh Gill](#), (1995) 6 SCC 194 : 1995 SCC (Cri) 1059] of women. This added a dimension of patriarchy and class. [[Section 354](#) (or any other provision of [IPC](#)) does not offer a statutory definition of the term “modesty”, and over time, was interpreted broadly, contemporaneously with the developing and acknowledged role



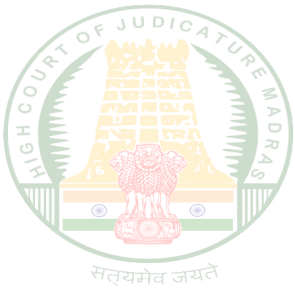
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*of women in society, to overcome its inherently colonial and patriarchal origins. ... One cannot be unmindful of the circumstances in which these provisions were enacted by a colonial power, at a time, when women's agency itself was unacknowledged, or had limited recognition. Further, women in India were traditionally—during the time of enactment of *IPC*, in the mid- Nineteenth Century—subordinated to the care of their fathers, or their husbands, or other male relatives. They had no share in immovable property; notions of gender equality were unheard of, or not permitted. Women had no right to vote. Quite naturally, the dignity of women — or indeed their autonomy, was not provided for.*

*67.The advent of the Constitution of India revolutionised—at least in law, all that. Regardless of gender, race, caste, religion or region, or all of the acknowledged sectarian and discrimination enabling barriers, everyone enjoyed equality of law, and equal protection of law (Article 14). Further, the provision in *Article 15(1)* proscribed*



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discrimination by the State (in all its forms) on various grounds, including gender. [Article 15\(3\)](#) enabled the State to enact special provisions for women and children.”

23. Turning to the facts of the instant case, keeping in view the contents of the FIR, the statement in the final report of the investigating officer, and the statement [u/s 164](#) CrPC of the complainant, we are of the view that even prima facie the ingredients as referred to supra, are not met. The record is silent with respect to the use of any force, apart from bald assertions of mental and physical discomfort caused to the complainant by the appellant.

24. It is well settled that for mens rea to be established, something better than vague statements must be produced before the court. As evidenced by the annexures [referred to above](#), i.e. the FIR, the preliminary investigation report as also the concluding portion of the chargesheet, no direct allegation nor any evidence in support thereof can be found attributing intent to the appellant. It cannot be



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said, then, that a case u/s 354 IPC is made out against the appellant.”

19. Even the statement of the witnesses are vague and generalized manner, from which, it is difficult to infer the knowledge of the accused that he is aware that he was trying to outrage the modesty of the woman and did it with that intention. In the absence of any other evidence as to incidental conversation, it is not known whether the accused had pulled the hands of the victim with the only intention of outraging her modesty.

20. The trial Court also has not accepted the fact that the accused abused the victim woman. In such case, it has to be seen whether the conviction based on the evidence of PW2 alone is right. Even PW2 has stated that the accused had left the place of occurrence when she arrived at the spot.

21. A further reading of the evidence of PW2 would reveal that the accused had beaten the victim. But this was not stated in the complaint. However, during the cross examination of PW2 she has stated



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that why she went to the place of occurrence, the accused left the place.

This is contradictory to her own version.

22.Though pulling the hands of a woman by a man would throw shock to the sense of decency of a woman, that should be coupled with the criminal intention of the accused. If the accused had any other intention like pulling the victim away from the center of a road or to assert any other accident that cannot be considered as commission of an offence of outraging the modesty without a detailed and clear evidence about the intention, it can be presumed automatically from any generalized or vague statements given in the evidence. Such vague or generalized statements will only earn a benefit of doubt in favour of the accused as regards his criminal intention to commit the offence. Though the prosecution has miserably failed to prove the intention, the learned trial Judge did not appreciate the same properly.

23.As the appellant is entitled to get the benefit of doubt, the judgment of the learned III Additional District and Sessions Judge, Madurai, dated 15.02.2018 made in Spl.S.C.No.25 of 2016 needs to be reversed.



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24. Accordingly,

- *the Criminal Appeal stands Allowed and the appellant is acquitted from all the charges levelled against him;*
- *The bail bond executed by the appellant if any, shall stand terminated and the fine amount, if any paid by the appellant shall be refunded to him.*

15.07.2025

NCC :Yes/No
Index :Yes/No
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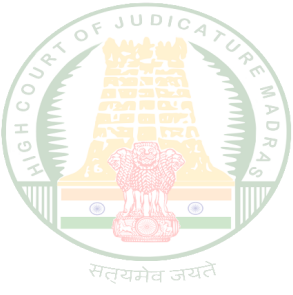
To

1.The III Additional District and Sessions Judge (PCR), Madurai

2. The Inspector of Police,,
Samayanallur Circle,
Sholavanthan
Police Station, Madurai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

4.The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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DR.R.N.MANJULA,J.

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