

P. Muthulingam and Others Vs. the State by Inspector of Police, T.Palur Police Station

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Court : Chennai

Decided On : Nov-02-2012

Judge : T. Sudanthiram

Appeal No. : Crl.A.Nos.770 of 2012, 645 and 679 of 2012

Appellant : P. Muthulingam and Others

Respondent : The State by Inspector of Police, T.Palur Police Station

Advocate for Pet/Ap. : For the Petitioners: C.D. Johnson, Advocate. For the Respondent: P. Govindarajan, Additional Public Prosecutor.

Judgement :

(Prayer:-Criminal Appeals filed under Section 374(2) of Cr.P.C., against the Judgment dated 17.09.2012 in S.C.No.56 of 2012 on the file of the learned Principal District and Sessions Judge, Ariyalur.)

COMMON JUDGMENT

The appellant in all these three criminal appeals are the accused in S.C.No.56 of 2012 on the file of the learned Principal District and Sessions Judge, Ariyalur and they stand convicted for an offence under Section 366 IPC and sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of

Rs.2,500/-, in default to undergo rigorous imprisonment for six months. Aggrieved by the said conviction and sentence, the appellants have preferred the above said criminal appeals before this Court.

2. These appeals are taken up for final hearing with the consent of both the parties since the learned counsel for the appellants submitted that the appellants are not challenging the conviction imposed upon them, but they plead for the reduction of the sentence of imprisonment imposed upon them. The learned counsel has also filed an affidavit of accused 1 to 5 except the second accused. The learned counsel has made an endorsement on behalf of the second accused that he too is confining his appeal only to the question of sentence.

3. The case of the prosecution, in brief, is that P.W.2, Revathy is the victim girl in this case. P.W.5 is the mother of P.W.2. P.W.1 is the junior paternal uncle of P.W.5. P.W.3 is the cousin of P.W.2. P.W.4 is also related to P.W.2.

(ii) One week prior to the occurrence, the fourth accused requested P.W.1 to give P.W.2 in marriage to him. The fourth accused approached P.W.1 since the father of P.W.2 had already expired. Though, the fourth accused wanted to marry P.W.2, P.W.2 had refused his request. As P.Ws.1, 2 and 5 refused the marriage of P.W.2 with the fourth accused, the fourth accused decided to abduct the victim girl, P.W.2. On 11.4.2009 at about 4.00 p.m, when P.Ws.2 and 3 were going to the field near Ayyanar Temple, accused 1 and 3 came there and they forcibly lifted P.W.2 and put her inside a Van which was standing there. Accused 2 and 4 were sitting inside the Van. The fifth accused drove the Van. While the vehicle was running, P.W.2 was threatened by all the accused and she was forced to marry the fourth accused. But P.W.2 expressed her unwillingness to marry the fourth accused. Though the accused insisted P.W.2 to give her consent to marry the fourth accused, she had not budged. P.W.2 began to cry and also persuaded the accused to take her to her mother's place. The driver of the Van took the vehicle to Thanipady Police Station. In the meantime, P.W.1 had gone to Thanipady Police Station and gave a complaint, Ex.P.1.

(iii) P.W.13, Inspector of Police on receiving complaint registered a case on 12.4.2009 at about 9.00 a.m in Cr.No.13 of 2012 for the offences under Section

147 and 366 A IPC and prepared First Information Report, Ex.P.7. P.W.13 on receiving the information that the victim girl was available at Thanipady bus stop along with the accused, proceeded to that place and arrested accused 4 and 5, who are available in the Van. P.W.2, victim girl, who was in the Van was secured. He seized the vehicle. The victim girl was sent for medical examination. P.W.13 after completing the investigation, laid a final report.

4. In order to prove the case, the prosecution examined P.Ws.1 to 14; marked Exs.P.1 to P.9. The accused were questioned under Section 313 Cr.P.C. with regard to the incriminating circumstances and they denied their complicity.

5. Though all the appellants do not challenge the conviction, this Court perused the records in order to confirm whether the conviction imposed on the accused is proper. The evidence of P.W.2 is that she was forcibly taken by the accused and she was pushed into the Van which was driven by the fifth accused. Her evidence is also supported by the evidence of P.Ws.3 and 4. P.W.3 is the person, who was accompanying the victim girl-P.W.2 at the time of occurrence. P.W.4 was the person, who was there near by.

6. The trial Court has rightly accepted the evidence of P.W.2 which was corroborated by the evidence of P.W.3. The trial Court only disbelieved the evidence of P.W.13, Inspector of Police, who had stated that he rescued the girl from the Thanipady bus stop, since according to P.W.2, she was brought by the accused themselves to Thanipady Police Station. In the said circumstances, the conviction imposed on the accused 1 to 5 by the trial Court under Section 366 IPC is confirmed.

7. All the accused have prayed for leniency with regard to the sentence of imprisonment imposed on them. Accused 1, 4 and 5 had been in jail for 55 days. The second accused had been in jail for 62 days. The third accused had been in jail for 31 days.

8. This Court is now to decide whether leniency should be shown to all these accused. It appears from the evidence of P.W.2, who was 19 years at the time of occurrence that the fourth accused approached the elders of P.W.2 and he wanted

to marry her. But the elder members of the family refused for arranging the marriage. It also appears further from her evidence in cross examination that initially, she agreed to marry the fourth accused. Though it is clear from the evidence that the accused have abducted the victim girl in order to pressurize her to accept for marrying the fourth accused, they have not achieved in their task. But they have not taken any co-ercive steps and she was not illtreated. When P.W.2 pleaded the fifth accused to take her to home, ultimately, P.W.2 was handed over to Thanipady Police Station by the accused themselves. The trial Court also disbelieved the evidence of P.W.13, Inspector of Police that the victim girl was secured when the Van stopped at Thanipady bus stop. This fact is established by the evidence of P.W.2, victim girl that she was handed over to the Thanipady police station by the accused themselves. This fact brings sympathy on the accused to the Court. Though all the accused have committed the offence of abduction, at one stage they have realized and they have returned the girl safely.

9. This Court feels that while sentencing the accused, reformatory theory should be adopted wherever it is possible. Except the fifth accused, other accused are related to the fourth accused. This Court finally believes that all the accused would have reformed themselves.

10. Considering the facts and circumstances of the case, the sentence of imprisonment imposed on the accused by the trial Court is modified and reduced to a period of imprisonment already undergone by them. Except the above modification, with regard to sentence of imprisonment, the criminal appeals are dismissed.

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