



S.A. No. 340 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 20.01.2026
PRONOUNCED ON : 08.07.2026

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

S.A. No. 340 of 2013
and
M.P. No. 1 of 2013



o. rumugha Gounder,
Kizhavanpudur,
Periapodu Post,
Anamalai,
Pollachi Taluk.

...Appellant/Appellant/Defendant

Vs.



D/o.Murugesan,
Kizhavanpudur,
Periapodu Post,
Anamalai,
Pollachi Taluk.

...Respondent/Respondent/Plaintiff

PRAYER IN S.A.: Second Appeal filed under Section 100 of the Code of Civil Procedure, against the judgment and decree dated 09.07.2012 made in A.S.No.133 of 2008 on the file of the Court of the III Additional District Judge of Coimbatore, confirming the judgment and decree dated 29.02.2008 made in O.S.No.308 of 2003 on the file of the Court of the Subordinate Judge, Pollachi.

PRAYER IN M.P.: Miscellaneous Petition filed praying to stay the execution of the Judgment and Decree dated 29.02.2008 made in O.S.No.308 of 2003 on the file of the Subordinate Judge, Pollachi as confirmed by the Judgment and Decree dated 09.07.2012 made in A.S.No.133 of 2008 on the file of the III Additional District Judge, Coimbatore, pending disposal of the above second



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appeal and thus render justice.

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For appellant : Mr.R.Nandhakumar,
Mr.K.P.Jotheeswaran.
For respondent: Mr.M.N.Balakrishnan,
Mr.D.R.Arunkumar.

J U D G M E N T

This Second Appeal arises from concurrent decrees in a suit for damages.

The plaintiff alleged that the defendant had sexual intercourse with her on a promise of marriage, later refused to marry her, and thereby caused physical pain, loss of dignity, social stigma and diminished marital prospects. The Trial Court by Judgment and decree dated 29.02.2008 made in O.S.No.308 of 2003 on the file of the Court of the Subordinate Judge, Pollachi, decreed the suit for Rs. 2,00,000/-, and the First Appellate Court by Judgment and Decree dated 09.07.2012 in A.S.No.133 of 2008 on the file of the III Additional District Judge, Coimbatore, confirmed the decree. The question before this Second Appeal is whether the concurrent findings suffer from any substantial error of law under Section 100 CPC.

2. The appellant is the defendant and the respondent is the plaintiff before the Trial Court. For convenience, the parties are referred to by their respective ranks before the Trial Court.

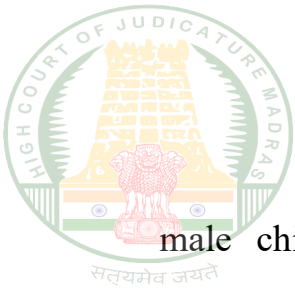


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3. The plaintiff's case is that both parties belonged to Kizhavanpudur, Periapodu Post, Anaimalai, Pollachi Taluk. According to her, the defendant had sexual intercourse with her twice, once about three months before 11.12.1995 and again about ten days thereafter, by coming to her thatched salai during her parents' absence. She pleaded that the act took place with her concurrence, induced by the defendant's false promise that he would marry her. In respect of the occurrence, Crime No.265 of 1995 was registered by Anaimalai Police Station under Sections 450 and 376 IPC. The defendant was convicted by the Assistant Sessions Judge, Udumalpet, on 10.01.1997 and sentenced to rigorous imprisonment for five years with a fine of Rs. 7,000/-. In C.A.No.10 of 1997, the I Additional District Judge-cum-Chief Judicial Magistrate, Coimbatore, by judgment dated 09.12.1998, acquitted him on the ground that the prosecution had failed to prove that the plaintiff was below 16 years of age and that the sexual act was treated as having taken place with her concurrence.

4. The plaintiff further pleaded that the defendant, under the guise of a promise to marry, induced her into sexual intercourse, resulting in pregnancy, and later reneged on his promise. She stated that she became the mother of a



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male child and suffered physical pain, indignity, loss of dignity, public

humiliation, social stigma and diminished marital prospects. She claimed that

the defendant's conduct constituted a civil wrong and that the criminal acquittal

did not bar a civil suit for damages. She relied on Sections 73, 69 and 70 of the

Contract Act, and on AIR 1995 MP 86, to contend that damages could be

awarded where a woman suffered physical pain, indignity, loss of marital

prospects and social stigma on account of a breach of promise to marry. She

also pleaded that the defendant had ancestral properties and agricultural income,

valued the suit at Rs.2,00,000/-, and sought damages with costs.

5. The defendant denied the claim in its entirety. He denied rape, trespass,

promise of marriage, sexual intercourse, pregnancy resulting from him, and

paternity of the child. According to him, no such incident had occurred, and the

plaintiff had falsely implicated him. He relied on his acquittal in C.A.No.10 of

1997 and contended that, having failed in the criminal forum, the plaintiff had

filed a vexatious civil suit. He also contended that, if there had been a promise

of marriage, there would have been no occasion for the plaintiff to lodge a

complaint of rape. He denied liability in tort, denied any enforceable contract,

disputed the plaintiff's means and property, and pleaded that the plaintiff had not

proved damages or cause of action.



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6. In the above pleadings, the Trial Court framed two issues: whether the plaintiff was entitled to damages from the defendant and, if so, to what relief. The plaintiff examined herself as P.W.1 and marked Exs.A1 and A2. The defendant examined himself as D.W.1 and marked Exs.B1 to B9. Ex.A1 is the FIR in Crime No.265 of 1995. Ex.A2 is the judgment in C.A.No.10 of 1997. Ex.B5 is the order in M.C.No.3 of 2000. Ex.B6 is the order dated 13.03.2002 in Crl. R.P.No.151 of 2001. Ex.B7 is the order dated 29.01.2003 in Crl. R.C.No.642 of 2001.

7. The Trial Court considered both issues together and, by judgment dated 29.02.2008, decreed the suit. It held that the criminal acquittal did not, by itself, bar a civil claim for damages, and that Ex.B6, relating to paternity in the maintenance proceedings, did not conclude the plaintiff's claim for civil injury. The defendant was directed to pay Rs. 2,00,000/- as damages and Rs. 3,004/- as costs. In A.S.No.133 of 2008, on reconsideration of the oral and documentary evidence, the First Appellate Court held that the suit was maintainable as a civil claim for damages, that Ex.A2 and Ex.B7 did not conclusively defeat the claim merely because the defendant had been acquitted in the criminal proceedings,



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and that Ex.B6 did not bar the claim, as it was confined to paternity in the maintenance proceedings. The appeal was dismissed on 09.07.2012, and the Trial Court's decree was confirmed.

8. In this Second Appeal, the defendant contends that the Courts below awarded damages on sympathy, presumption and moral assumption, without proof of a promise of marriage, a sexual relationship, pregnancy resulting from him, a civil wrong, actual loss, damages or his means. He relies on his acquittal in C.A. No. 10 of 1997, the dismissal of the criminal revision in Crl. R.C. No. 642 of 2001, and the order in Crl. R.P. No. 151 of 2001, which held that the paternity of the minor child was not proved. He also points to alleged inconsistencies in the plaintiff's versions, particularly between whether the act was rape or consensual intercourse on a promise of marriage, and regarding the dates of occurrence. He further raises the limitation issue and attacks the reasoning that no unmarried Hindu woman would consent to sexual intercourse without a promise of marriage.

9. This Court admitted the Second Appeal on the following substantial questions of law:



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1. In view of the claim made by the respondent for damages, are n't the onus lie on the plaintiff to prove the loss and damages suffered by her against the Appellant and if so, whether the Courts below are right in awarding damages to her without adhering to the above said law?

2. Whether the Courts below are erred in not appreciating the Order dated 13.03.2002 [Ex.B.6] made in Crl. R.P. No.151 of 2001 and Order dated 09.12.1998 [Ex.A.2] made in C.A.No.10 of 1997 in correct perspective, in which the Courts have observed that the Appellant has not committed rape against the respondent and he is not the father of the respondent's minor son?"

10. Learned counsel for the appellant submitted that the civil suit was decided on assumptions rather than on legally acceptable evidence. It was argued that the plaintiff took inconsistent stands in the criminal case, where rape was alleged, and in the present suit, O.S.No.496 of 2005, where it was one of consensual intercourse with a promise to marry. It was further submitted that, if the suit were based on breach of promise to marry, limitation would run at least from 11.12.1995, when the FIR was registered; that the plaintiff's evidence in the maintenance proceedings and the child's date of birth were inconsistent with paternity; and that the damages were awarded without proof or basis. Reliance was placed on **M.S. Sheriff v. State of Madras [AIR 1954 SC 397]**, **Iqbal Singh Marwah v. Meenakshi Marwah [(2005) 4 SCC 370]** and **Kishan Singh**



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v. Gurpal Singh [2010] to contend that findings in criminal proceedings are not

binding on civil Courts and that the civil suit ought to have been decided only on evidence adduced therein.

11. Learned counsel for the respondent submitted that the earlier criminal proceedings did not hold that no sexual intercourse had occurred; the acquittal turned on age and consent in the criminal-law sense. It was argued that Ex.B6 only rejected paternity for maintenance and did not disprove a sexual relationship or the civil wrong pleaded. The respondent contended that the suit was for compensation for social, reputational and dignitary injury caused by sexual intercourse induced by a promise of marriage and followed by repudiation. Reliance was placed on **Laxminarayan v. Sumitha Bai [AIR 1995 MP 86]** to contend that a civil suit for damages can lie notwithstanding a criminal acquittal. On limitation and continuing injury, reliance was placed on **Balkrishna Savalram Pujari Waghmare v. Shree Dnyaneshwar Maharaj Sansthan [AIR 1959 SC 798]**, **R. Mohanakrishnan v. Deputy Inspector General of Police [W.P.No.10707 of 2024]**, and **Vidya Devi v. State of Himachal Pradesh [(2020) 2 SCC 569]**.



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Substantial Questions of Law No 1 :

12. The first substantial question of law concerns the quantum of compensation awarded to the plaintiff and the appellant's contention that the plaintiff failed to prove the actual loss she suffered in monetary terms.

13. This contention cannot be accepted. The injury suffered by the plaintiff is not capable of precise arithmetical calculation or commercial valuation. It is not a case involving pecuniary loss or loss of property that requires proof by accounts or documentary evidence. The injury complained of affects the plaintiff's dignity, reputation, mental peace, and emotional well-being. Such injury is essentially non-pecuniary. Though it cannot be measured with mathematical precision, it is nevertheless a legally recognised injury for which compensation may be awarded.

14. The plaintiff has quantified her claim at Rs.2,00,000/-. In light of the nature of the wrong committed and the mental agony, humiliation, and social stigma suffered by the plaintiff on account of the appellant's conduct, the amount claimed cannot be said to be excessive or arbitrary. The Courts below,



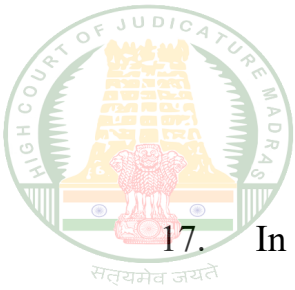
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on appreciation of the evidence, found the said amount reasonable and awarded compensation accordingly.

15. Therefore, the appellant's contention that the plaintiff ought to have established the actual monetary loss suffered by her is misconceived. In cases involving injury to dignity, reputation, and mental suffering, compensation cannot be determined by applying the standards applicable to commercial or pecuniary losses. The amount awarded by the Courts below is fair and reasonable and calls for no interference.

Substantial Question of Law No. 2

16. In respect of the second substantial question of law, the appellant's principal defence rests upon the judgment of acquittal passed by the criminal appellate court. It is well settled that findings recorded in criminal proceedings are neither binding on civil proceedings nor vice versa. Nevertheless, such findings may have persuasive or evidentiary value, depending on the nature of the issues decided.



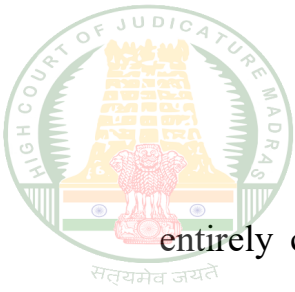
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17. In the present case, the appellant's acquittal was not on the merits of the

allegations levelled by the plaintiff, but on a technical ground. The prosecution case was that the appellant had sexual intercourse with the plaintiff on the false promise of marrying her. It was further alleged that, at the relevant time, the plaintiff was under 16 years of age and, therefore, irrespective of her consent, the act constituted the offence of rape under the then-prevailing law. On that basis, the appellant was charged and convicted by the Trial Court.

18. However, the Criminal Appellate Court found that the prosecution had failed to establish the victim's age in accordance with the law. Although the Headmaster of the school was examined, the relevant school records were not produced. Holding that the failure to prove the victim's age was fatal to the prosecution's case, the Appellate Court acquitted the appellant. Thus, the acquittal was founded solely on the prosecution's failure to prove the victim's minority, an essential ingredient of the offence of rape.

19. Significantly, neither the Criminal Appellate Court nor the High Court, while confirming the acquittal on revision, made any finding that the appellant had not had sexual intercourse with the plaintiff, or that the relationship was



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entirely consensual and free from any inducement or misrepresentation. The criminal Courts did not adjudicate on whether a false promise of marriage had obtained the plaintiff's consent. Therefore, the findings rendered in the criminal proceedings do not conclude or even substantially affect the issues arising in the present civil proceedings.

20. The appellant relied on Ex.B6, the order passed by the Revisional Court. A careful reading of that order shows that the Revisional Court held that the respondent failed to establish that the male child was conceived as a result of the alleged cohabitation with the appellant on 11.12.1995. The Court observed that the child was born on 26.05.1996 by normal delivery, i.e., within the period of five months and 15 days after the alleged act of cohabitation. On that basis, applying the presumption available under the Indian Evidence Act, the Revisional Court concluded that the respondent failed to prove that the child was born out of the said cohabitation.

21. The finding was rendered in a summary proceeding and was confined solely to the question of the child's paternity. The Revisional Court did not hold that no cohabitation had taken place between the parties on 11.12.1995. Its



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finding was only that the respondent had failed to establish that the pregnancy resulting in the birth of the child could be attributed to the alleged cohabitation on 11.12.1995 or to any subsequent act, applying the statutory presumptions relating to the period of gestation.

22. Therefore, Ex. B6 cannot be construed as a finding that there was no sexual relationship between the parties. The scope of the enquiry in those proceedings was entirely different from the issue arising in the present suit. The present claim is founded on the appellant's tortious conduct in inducing the respondent to consent to sexual intercourse by making a false promise of marriage and thereafter reneging on that promise. Consequently, the findings recorded in Ex. A2, as well as in Ex. B6, do not operate as a bar or constitute an impediment to the adjudication of the respondent's claim for damages based on tortious liability.

23. The appellant has, for the first time in the Second Appeal, raised a plea of limitation in a casual and general manner. No such plea appears to have been specifically raised before the Courts below, nor does any substantial question of



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law on limitation arise from the concurrent findings. Nevertheless, since the issue was argued, it is briefly considered.

24. The cause of action is said to have arisen on 11.12.1995. According to the plaintiff, she was a minor on that date. The evidence on record establishes her date of birth as 07.06.1981. She therefore attained majority on 07.06.1999.

25. This suit is for damages on the ground that the appellant induced the plaintiff to consent to sexual intercourse by making a false promise of marriage and thereafter reneged on that promise. No specific Article in the Schedule to the Limitation Act, 1963 prescribes the period of limitation for such a suit. Therefore, the residuary provision applies. The period of limitation is three years from the date on which the right to sue accrues.

26. In computing the period of limitation, the plaintiff is entitled to the benefit of Section 6 of the Limitation Act, 1963, which excludes the period during which she was under the disability of minority. Further, the time spent in prosecuting the application for permission to institute the suit as an indigent



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person is liable to be excluded in accordance with the provisions of the

Limitation Act governing suits instituted by indigent persons.

27. In the present case, the petition seeking leave to institute the suit as an indigent person was filed on 17.08.2001, well within three years of the date on which the plaintiff attained majority, namely 07.06.1999. Consequently, the suit cannot be held to be barred by limitation. The plea of limitation raised by the appellant is, therefore, devoid of merit and stands rejected.

28. The Courts below, upon an independent appreciation of the oral and documentary evidence, concurrently found that the appellant had sexual intercourse with the plaintiff with her consent, but that such consent had been obtained by a false promise of marriage, which the appellant never intended to honour and subsequently repudiated. On that factual finding, the Courts below held the appellant liable to compensate the plaintiff for the injury she suffered.

29. The concurrent findings recorded by both Courts below are findings of fact based on the appreciation of evidence. No perversity, misapplication of law, or omission to consider any material evidence has been demonstrated to warrant

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interference under Section 100 of the Code of Civil Procedure. The judgment of acquittal in the criminal proceedings, rendered on a technical ground relating to proof of age, does not undermine the independent findings recorded by the civil Courts.

30. This Court therefore finds no infirmity or legal error in the concurrent judgments and decrees of the Courts below. The substantial questions of law are answered against the appellant. Consequently, the Second Appeal fails and is dismissed. No order as to costs shall be made. Connected miscellaneous petition stands closed.

08.07.2026

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Index:Yes/No

Speaking Order /Non-speaking order

Neutral citation:Yes/No

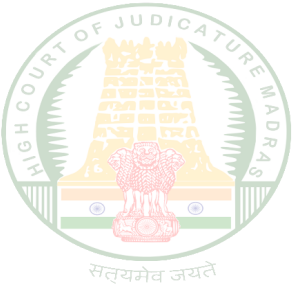
To

1. The III Additional District Judge of Coimbatore

2.The Subordinate Judge, Pollachi.

3. The Section Officer,
V.R.Records,
Madras High Court.

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DR. A.D. MARIA CLETE, J

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**PRE DELIVERY JUDGMENT
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