

BAIL SLIP

Appellant in CrI.A.No.617 of 2008 (Accused in SC.No.136/2008 dated 25.7.2008 on the file of the Learned Sessions Judge, (Mahila Court), Cuddalore) was released on Bail as per order of this Court dated 22.8.2008 in CrI.M.P.No.1 of 2008 in CrI.A.No.617 of 2008.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

Criminal Appeal No.617 of 2008

Natarajan ... Appellant/Sole Accused.

vs.

State by
Inspector of Police,
Neyveli Thermal Police Station
Cuddalore District (Crime No.206/07)

... Respondent/Complainant.

Criminal Appeal filed under Section 374(2) of Cr.P.C., to set aside the conviction and sentence passed by the learned Sessions Judge (Mahila Court), Cuddalore made in S.C.No.136 of 2008 by judgment dated 25.7.2008.

For appellant : Mr.Ganesh Rajan
For Respondent : Mr.P.Govindarajan,
Additional Public Prosecutor.

JUDGMENT

This Criminal Appeal has been directed against the conviction and sentence dated 25.07.2008 passed in Sessions Case No.136 of 2008 by the Sessions Court (Mahila Court), Cuddalore.

2. The case of the prosecution is that both the accused and prosecutrix are residents of Kolliruppu Village and prior to few months from the date of giving complaint, both of them have loved each other. The accused has promised to marry the prosecutrix and by way of giving false promise, the accused has had coition with the prosecutrix and subsequently refused to marry her. After knowing the evil design of the accused, the prosecutrix has given a complaint on 21.8.2007 and the same has been registered in Crime No.206 of 2007 and the complaint given by the prosecutrix has been marked as Ex.P.1.

3. On receipt of Ex.P.1, the Investigating Officer, viz., P.W.11 has taken up investigation and also made arrangements to conduct medical examination both to the accused as well as to the prosecutrix and after completing the investigation, has laid a final report on the file of District Munsif cum Judicial Magistrate Court, Neyveli and the same has been taken on file in P.R.C.No.6 of 2008.

4. The District Munsif cum Judicial Magistrate Court, Neyveli, after considering the facts that the offences alleged to have been committed by the accused are triable by Sessions Court, has committed the case to the Court of Sessions, Cuddalore Division and the same has been taken on file in Sessions Case No.136 of 2008 and subsequently made over to the trial court.

5. The trial court, after hearing arguments of both sides and upon perusing relevant documents has framed the first charge against the accused under Section 376(1), second charge against him under section 417 of the Indian Penal Code and the same have been read over and explained to him. The accused has denied the charges and claimed to be tried.

6. On the side of the prosecution, P.Ws.1 to 11 have been examined and Exhibits P.1 to P.11 have been marked.

7. When the accused has been questioned under Section 313 of the Criminal Procedure Code, as respects the incriminating materials available in evidence against him, he denied his complicity in the crime. No oral and documentary evidence have been let in on the side of the accused.

8. The trial court, after hearing arguments of both sides and upon evaluating the relevant evidence available on record, has found the accused guilty under Section 417 of the Indian Penal Code and sentenced him to undergo one year Rigorous Imprisonment and also imposed a fine of Rs.10,000/-. The trial court has acquitted the accused in respect of the charge issued under section 376 of IPC. Against the conviction and sentence passed by the trial court, the present Criminal Appeal has been preferred at the instance of the accused as appellant.

9. The learned counsel appearing for the appellant/accused has befittingly contended that in the instant case, both the prosecutrix and accused have loved each other and the trial Court, without considering the evidence given by the prosecutrix, has erroneously found the accused guilty under section 417 of IPC and therefore, the conviction and sentence passed by the trial court under the said section are liable to be set aside.

10. Per contra, the learned Additional Public Prosecutor has contended that in the instant case, the prosecutrix has been examined as P.W.1 and in fact she has given evidence so as to corroborate the averments made in Ex.P.1, Complaint. The trial court, after considering the trustworthy evidence adduced by the prosecutrix has rightly found the accused guilty under section 417 of IPC and therefore, the conviction and sentence passed by the trial court under the said section do not warrant interference.

11. As adverted to earlier, the appellant/accused has faced two charges, viz., under sections 376 and 417 of IPC. The trial court after evaluating the available evidence on record has found that the offence punishable under section 376 of IPC is not made out and consequently, acquitted the accused under the said section, but the trial court has found the accused guilty under section 417 of IPC. For deciding the said aspect, the Court has to meticulously analyze the evidence adduced by the prosecutrix.

12. The prosecutrix has been examined as P.W.1 and during the course of cross-examination, she has clearly admitted to the effect that the junior paternal uncle of the accused and his brother have refused to give their consent for marrying the prosecutrix to the accused. In fact, this Court has analyzed the entire evidence adduced by the prosecutrix and ultimately found that no evidence is available to the effect that the accused has refused to marry the prosecutrix. Further, as pointed out earlier, the trial court has acquitted the accused in respect of the charge framed under section 376 of IPC.

13. Considering the fact that the trial court has acquitted the accused in respect of the charge framed under section 376 of IPC and also considering the fact that there is no specific evidence on the part of the prosecutrix to the effect that the accused has deceived her, this Court is of the view that the conclusion arrived at by the trial court in respect of the charge under section 417 of IPC is totally erroneous and therefore, the conviction and sentence passed by the trial court under section 417 of IPC are liable to be set aside.

In fine, this Criminal Appeal is allowed. The conviction and sentence passed in Sessions Case No.136 of 2008 by the Sessions Court (Mahila Court), Cuddalore are set aside. The appellant/accused is acquitted. Bail bonds, if any executed by the appellant/accused shall stand cancelled. Fine amount, if any, paid by him, is ordered to be refunded.

ajr

s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

1. The Sessions Court (Mahila Court), Cuddalore

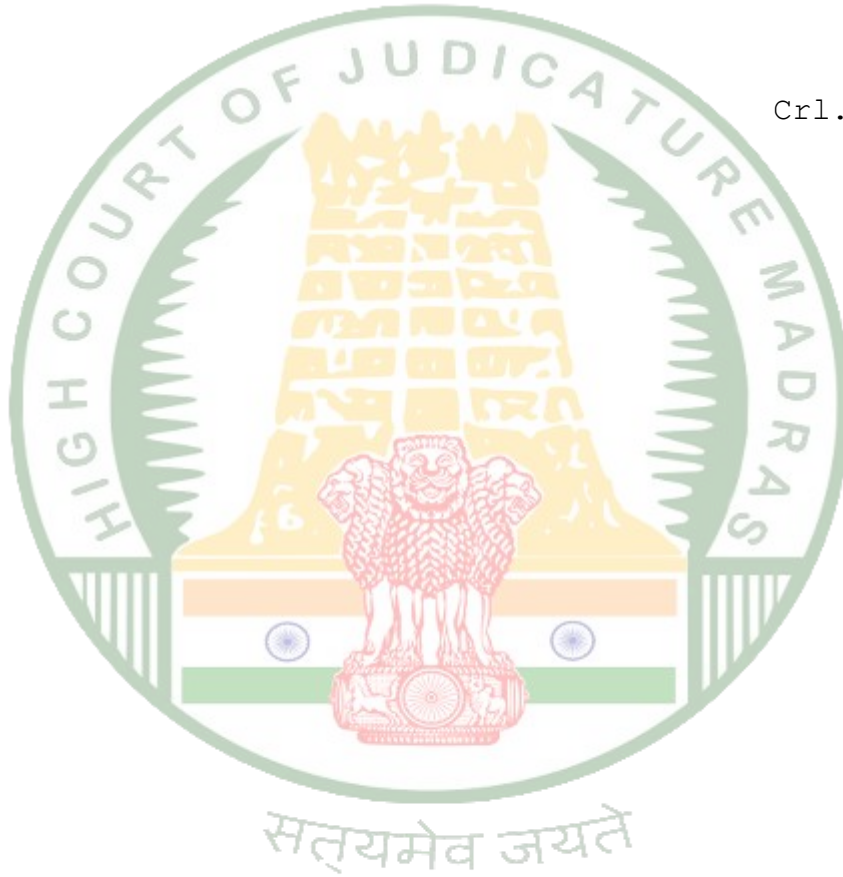
2. Inspector of Police,
Neyveli Thermal Police Station
Cuddalore District

3. The Public Prosecutor,
High Court, Chennai

+ 1 cc to Mr.Ganesh Rajan, Advocate SR 54352

tej(co)
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