

BAIL BOND

The Appellant / Petitioner viz., M.Sudhakar, aged 25 years, S/o.Maniappan, was directed to be released on bail as per order dated 21/03/2017 made in Crl.M.P.No.1/2007 in Crl.Appeal No.188/2007.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.08.2018

DELIVERED ON : 26.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

CRL.A.No.188 of 2007

M.Sudhakar ... Appellant / Accused

-vs-

The State Rep.by
The Sub-Inspector of Police
All Women Police Station
Dharmarpuri

... Respondent / Complainant

PRAYER: Criminal Appeal filed under Section 374 of Cr.P.C., praying to set aside the judgment in S.C.No.49 of 2004 dated 13.12.2006 by the Additional Sessions and Fast Track Judge, Dharmarpuri at Krishnagriri.

For Petitioner : Mr.A.E.Kalai Selvan

For Respondent : Mr.R.Surya Prakash
Government Advocate

JUDGMENT

The convicted sole accused is the appellant herein.

2. This appeal has been preferred by the accused challenging the judgment passed by the Additional Sessions Judge, Fast Tract Court, Dharmarpuri at Krishnagiri in S.C.No.49 of 2004 dated 13.12.2006, wherein the appellant was found guilty and convicted the accused for offences under Sections 417, 376 r/w.90 and 506(ii) of IPC and sentenced him to undergo Rigorous Imprisonment for one year and to pay a fine of Rs.1000/-

in default to undergo three months Simple Imprisonment for the offence under Section 417 of IPC ; to undergo five years Rigorous Imprisonment and to pay a fine of Rs.1000/-, in default to undergo three months simple imprisonment for the offence under Section 376 r/w.90 of IPC ; sentenced to undergo one year Rigorous Imprisonment for the offence under Section 506(ii) of IPC and the sentence is ordered to run concurrently.

3. The learned counsel for the appellant would contend that the respondent police have filed charge sheet alleging commission of offence under Sections 417, 376 r/w. 90 and 506 (ii) of IPC against the accused that on promise to marry PW1/Victim girl, the appellant had sexual intercourse on consent and subsequently failed to marry her. On 03.05.2003, when she compelled to marry her the appellant/accused criminally intimidated her. Hence, he was charged for the offences under Sections 417, 376 r/w.90 and 506(ii) IPC.

4. When trial was on before the Additional Sessions Court, Fast Track Court, Dharmapuri, PW1 victim girl and her family have filed a memo stating that pending trial, after completion of the examination of private prosecution witnesses, mediation conducted by the village elders and the accused got married PW1 /victim girl. However, for the reasons best known the Sessions Judge has proceeded further and the matter was posted for 313 Cr.P.C questioning also. The same has been submitted before the Court stating that the PW1/victim girl has married the accused and by a judgment dated 13.12.2006, the Sessions Judge has convicted and sentenced the appellant/accused as stated above.

5. When the criminal appeal is taken up for consideration for admission the appellant moved M.P.No.1 of 2007. By an order dated 21.03.2007, this Court has considered the fact that during pendency of trial, the appellant/ accused married the victim girl and the said factum of solemnization of marriage and are living together has been recorded at para 21 of the judgment and suspended the sentence. Now the appellant and the victim girl are produced before the Court along with three childrens aged between 9,7 and 6. The learned counsel for the petitioner would submit that leniency may be shown to them.

6. On perusal of the lower Court records, it is seen that pending mediation process conducted by the village elders, PW1/Victim Girl has married the accused and the factum of the said marriage is also produced before the trial court and also the same has been produced before this Court. The proof of factum of marriage was also produced at the time of suspension of sentence in MP.No.1 of 2007. Now the accused and PW1/victim girl married and the proof of marriage was also filed and they

are living together and three childrens are born out of their legal wedlock. I am inclined to accept the contention of the learned counsel for the appellant. Consequently, on the special facts and circumstances of the case, the ends of justice will be met by confirming the conviction for the above said sections and also taking note of the fact that pending investigation the appellant/ accused was incarceration for several months till filing of charge sheet and committal to the Sessions Court and during pendency of trial he got married and now they are having three children on the above stated age group and the period of sentence already undergone by the accused during pending investigation and pending trial and the period between the date of judgment and till the bail order granted by this Court has been treated as sentence and accordingly the sentence awarded by the lower Court is modified into the period of sentence already undergone. The bail bond if any executed by M.Sudhakar, aged 25, S/o. Maniappan, Kuttur Village, Mathemangalam Post, Dharmapuri District shall stand cancelled.

7. In the result, the criminal appeal is partly allowed to the extent indicated above.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Additional Sessions and Fast Track Judge,
Dharmapuri at Krishnagriri.

2.The Additional Public Prosecutor,
Madras High Court, Chennai - 104.

Copy to:-

The Section Officer,
Criminal Section,
High Court,
Madras (2 copies)

JUDGMENT IN
CRL.A.No.188 of 2007

VG-I(co)
ssm(20/12/2018)