



BAIL SLIP

The Appellant/Accused namely Mr.E.Ramachandran, S/o Elumalai, was directed to be released on bail as per the order of this court dated 16.6.2015 in Crl.M.P.No.1 of 2015 in Crl.A.No.116 of 2015 on the file of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.11.2018

PRONOUNCED ON : 17.12.2018

CORAM :

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

CRL.A.No.116 of 2015

E.Ramachandran

... Appellant / Accused

-Vs-

The State Represented by
The Inspector of Police,
W-9, All Women Police Station,
Villivakkam, Chennai-600 049.

... Respondent / Complainant

PRAYER: Criminal Appeal is filed under Section 374 of Criminal Procedure Code, praying to call for the records in connection with the order of conviction and sentence passed in S.C.No.368 of 2013 dated 19.02.2015 by the learned Mahila Sessions Judge, Chennai wherein the trial Court found the guilty of the appellant and convicted and sentenced to undergo 10 years rigorous imprisonment and also to pay fine amount of Rs.10,000/- in default to undergo further period of six months simple imprisonment under Section 6 of Protection of Children from Sexual Offences Act, 2012 and set set aside the same and acquit the appellant from all the charges.

For Appellant : Mr.R.C.Paul Kanagaraj

For Respondent : Mrs.V.Saratha Devi,
Government Advocate (Crl.Side).



ORDER

The convicted sole accused is the appellant herein. He has filed this Criminal Appeal to set aside the order of conviction and sentence passed in S.C.No.368 of 2013, dated 19.02.2015, by the learned Mahila Sessions Judge, Chennai, wherein the trial Court found the guilty of the appellant and convicted and sentenced him to undergo 10 years rigorous imprisonment and also to pay fine amount of Rs.10,000/- in default to undergo further period of six months simple imprisonment under Section 6 of Protection of Children from Sexual Offences Act, 2012.

2.Heard the learned counsel appearing for the appellant and the learned Government Advocate (Crl.Side) appearing for the respondent police and perused the materials available on records carefully.

3.On perusal of the records, it is seen that the defacto complainants have given a complaint against the appellant on 30.05.2013 before the respondent for the alleged occurrence took place at the house of the defacto complainants on 22.05.2013 that the appellant gone to the defacto complainants' house at the instigation of the defacto complainants called from cell phone to give their daughter that the defacto complainants wanted to speak to their daughter. Accordingly, the appellant has given the cell phone to the daughter of the defacto complainants. After the completion of the cell phone conversation, the appellant alleged to commit the offence under Section 376 IPC r/w Section 6 of Protection of Children from Sexual Act, 2012. At the time of occurrence, the victim was aged about 16 years as per the School Certificate, but she completed the age of 18 years as per the defacto complainants.

4.It is further seen from the records that on 01.08.2013, this Court granted bail to the appellant with a condition that the appellant as well as the parents of the appellant filed an affidavit, stating that after attaining the majority of the victim, i.e., the daughter of the defacto complainants, they have also agreed to marry their daughter to the appellant before this Court, while considering the bail application. To that effect, the appellant filed an affidavit in the judicial custody signed in front of the Jailor, Central Prison-II, Puzhal, Chennai on 30.07.2013 and the parents of the appellant also filed an affidavit on the same ground on the same day. The appellant's parents have also given no objection for the



marriage of the appellant with that of the said victim. By recording the affidavits filed by the appellant as well as the parents of the appellant, the appellant released on bail, since the appellant and the defacto complainants are relatives and agreed to settle the issue amicable by arranging marriage between the appellant and the defacto complainants' daughter, after attaining majority.

5.It is submitted by the learned counsel appearing for the appellant that the allegation against the appellant is that the appellant was in love affair with the victim girl and due to which the appellant herein said to have misbehaved with the victim girl. At that time, the victim girl was minor. Pending appeal, the appellant married the victim girl on 19.10.2018 at Thirumala Thiurpathi Devasthanam on attaining majority by the victim girl and also the marriage between the appellant and P.W.4, victim girl was duly registered at Sub Registrar Office, Sembium on 26.10.2018 in Serial No.456 of 2018. The original of the Hindu Marriage Register attested by the Marriage Registrar is produced before this Court.

6.It is seen from the records that the accused was in judicial custody pending investigation and also during the time of the trial. It is further noted that after the conviction order, during the pendency of the appeal and before getting the order of suspension from this Court, he was also in the judicial custody.

7.It is also seen from the records that the victim is now got married to the appellant at Thirumala Thiurpathi Devasthanam on 19.10.2018 and also joint affidavit has been filed by both of them. The appellant and the victim girl have also appeared before the open Court and would state that after attaining majority, the victim girl has married the appellant and they are living happily and prayed for setting aside the order.

8.Taking into consideration of the subsequent development during the investigation as stated supra and after filing of the appeal, the victim girl is now married with the appellant, I am of the considered view that while the conviction passed against the accused is hereby confirmed, however, taking note of the facts as stated above, the sentence passed against the appellant alone is modified as to the period already undergone and the period of sentence already undergone by the appellant / accused is set off under Section 428 Cr.P.C. The fine amount awarded is kept intact.



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9. With this modification, this Criminal Appeal is partly allowed to the limited extent as indicated above.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

Myr

To

1. The Mahila Sessions Judge, Chennai.
2. The Principal Sessions Judge, Chennai.
3. The Additional Sessions Judge, Mahila Court, Chennai.
4. The X Metropolitan Magistrate, Egmore, Chennai.
5. Do 'Through' The Chief Metropolitan Magistrate, Egmore, Chennai.
6. The Inspector of Police,
W-9, All Women Police Station,
Villivakkam, Chennai-600 049.
7. The Superintendent of Prison,
Judicial Custody, Central Prison,
Puzhal, Chennai.
8. The District Collector/District Magistrate, Chennai.
9. The Director General of Police,
Tamil Nadu, Mylapore, Chennai-4
10. The Public Prosecutor,
Madras High Court, Madras.
11. The Section Officer,
Crl. Section Records
High Court, Madras (+2 Copies)

CRL.A.No.116 of 2015

GMV (28/12/2018)