

BAIL SLIP

Ponraj S/o Mahalingam, Petitioner/Sole Accused is released on Bail vide the order of this court, dated 19.08.2013 made in MP.(MD) No.4 of 2013 in CrI Rc(MD).No. 71 of 2013

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.R.C(MD)No.71 of 2013

Pon Raj : Petitioner/Appellant/
sole Accused

Vs.

State rep. by
Sub Inspector of Police,
Eathamozhi Police Station,
Kanyakumari District
(Crime No.462/2011)

: Respondent/Respondent/
Complainant

PRAYER: Revision filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records of the learned Sessions Judge, Kanyakumari Division at Nagercoil in CrI.A.No.5 of 2004 by judgment dated 31.08.2012 confirming the conviction and sentence of imprisonment imposed by the learned Judicial Magistrate No.III, Nagercoil in C.C.No.15 of 2002 by the judgment dated 15.12.2003 and set aside the judgments of the Court below and acquit the petitioner.

For Petitioner: Mr.S.Deenadhayalan

For Respondent: Mr.A.Robinson,

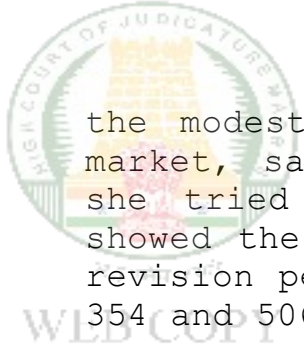
Government Advocate(CrI.Side)

ORDER

This criminal revision case is directed against the concurrent findings of the Courts below holding the revision petitioner guilty of offence under Sections 451 and 354 IPC.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (CrI.Side) appearing for the respondent.

3.The brief facts of the case as per the prosecution is that on 03.12.2001 at about 11.30 hours the revision petitioner herein entered the house of P.W.1, where her daughter P.W.2 aged about eight years was alone. The revision petitioner has outraged



the modesty of the minor girl. When P.W.1 was returned from market, saw the outraging act of the revision petitioner. When she tried to rescue her daughter, the revision petitioner was showed the knife and threatened her and ran away. Therefore, the revision petitioner was tried for the offences under Sections 452, 354 and 506(i) IPC.

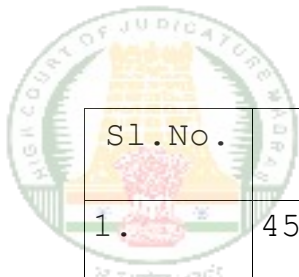
4.The trial Court after examining the nine witnesses and four exhibits has found that there is no material to prove the criminal intimacy and acquitted the revision petitioner/accused for the offence under Section 506(i) IPC, whereas relying upon the evidence of the minor child who is the victim of harassment, convicted the revision petitioner/accused for the offences under Sections 451 and 354 IPC and sentenced him to undergo 2 years rigorous imprisonment for each offence. Both the sentences were ordered to run concurrently. Aggrieved by that, an appeal has been preferred on the ground that the minor child witness was tutored by her mother and there is no corroboration to her evidence. Besides the embellishment and exaggeration of the prosecution witnesses belie their case in toto.

5.The lower appellate Court has rightly rejected the said plea and confirmed the judgment of the trial Court. The same point which has been canvassed before the lower appellate Court, is also canvassed in this revision.

6.A perusal of the deposition recorded by the learned Magistrate in respect of the minor witness, who is also the victim of the crime, inspires the confidence of this Court and is quite nature and genuine without any embellishment and exaggeration. The evidence of P.W.2 on the whole is reliable. Therefore, the judgment of the conviction is sustainable. This Court find no merit to interfere with the conviction slapped upon the revision petitioner by the Courts below.

7.The learned counsel appearing for the revision petitioner would submit that the petitioner while he was nearly 23 years old, due to his innocence, he committed the said crime and hence he need not be punished severely. This Court, after taking note of the nature of the incident and the age of the revision petitioner at the time of occurrence, is inclined to modify the period of sentence of two years to one year for each offence.

8.In the result, this criminal revision case is disposed of. The conviction dated 15.12.2003 passed in C.C.No.15 of 2002 by the learned Judicial Magistrate No.III, Nagercoil, confirmed by the learned Sessions Judge, Kanyakumari Division at Nagercoil in CrI.A.No.5 of 2004, dated 31.08.2012 is confirmed and the sentence



Sl.No.	Offence	Sentence imposed by the Trial Court	Sentence modified by this Court
1.	451 I.P.C.	2 years rigorous imprisonment.	1 year rigorous imprisonment.
2.	354 I.P.C.	2 years rigorous imprisonment.	1 year rigorous imprisonment.

9.The sentences are ordered to run concurrently. The period of imprisonment already undergone by the revision petitioner shall be set off. Bail bond, if any, executed by the revision petitioner shall stand cancelled. The trial Court is directed to secure the appellant and commit him in prison to undergo the remaining period of sentence.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS-I)

To

- 1.The Sessions Judge, Nagercoil, Kanyakumari District.
- 2.The Judicial Magistrate No.III, Nagercoil.
- 3.The Chief Judicial Magistrate, Kanyakumari at Nagercoil.
- 4.The Sub Inspector of Police, Eathamozhi Police Station, Kanyakumari District.
- 5.The Superintendent, Central Prison, Palayamkottai.
- 6.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

Copy to:

The Record Keeper, Criminal Section,
Madurai Bench of Madras High Court, Madurai. (2 Copies)

+ 1 CC TO MR.S.DEENADHAYALAN, ADVOCATE IN SR NO.88961

CP

BU/PM/SAR-III :01.11.2018 : 3P/10C

ORDER MADE IN
Cr1.R.C(MD)No.71 of 2013
04.10.2018