

BAIL SLIP

The Appellant herein/Accused No.1, Namely Ram Santhosh, S/o.Raju (in S.C.No. 171 of 2011 on the file of Sessions Judge, Mahalir Neethimandram, Chennai) was directed to be released on bail by order of this Court dated 11.04.2012 and made in M.P.No. 1 of 2012 in Crl.A.No. 232/2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.A.No.232 of 2012

Ram Santhosh .. Appellant/Accused No.1

Vs.

State represented by
The Inspector of Police,
H1-Washermenpet Police Station,
Chennai.(Cr.No. 685/09) .. Respondent/Complainant

Criminal Appeal filed under Section 374(2) Cr.P.C. against the judgment and order dated 17.02.2012 passed in S.C.No.171 of 2011 on the file of the Sessions Court (Mahalir Neethimandram), Chennai.

For Appellant : Mr.S.L.Mahendran

For Respondent : Mrs.P.Kritika Kamal
Government Advocate (Crl. Side)

JUDGMENT

This criminal appeal has been preferred seeking to set aside the judgment and order dated 17.02.2012 passed in S.C.No.171 of 2011 on the file of the Sessions Court (Mahalir Neethimandram), Chennai.

2. The prosecution story runs thus:

2.1 Priyadarshini (aged about twenty years), who had completed B.B.A., and was employed in Nokia company, committed suicide by hanging, on 24.10.2009, around 14.30 hours, in her residence, when none was available. Her mother Sumathi (PW1) returned home and was shocked to find her daughter hanging down the ceiling fan.

2.2 The body was lowered by the family members and

a written complaint (Ex-P1) was given by Sumathi (PW1), based on which, S.Jayakrishnan (PW7), Sub-Inspector of Police, registered a case in Crime No.685 of 2009 under Section 174 Cr.P.C. and prepared the printed F.I.R. (Ex-P4). In the complaint (Ex-P1), Sumathi (PW1) did not incriminate anyone.

2.3 The investigation of the case was taken over by Gopalaguru (PW8), Inspector of Police, who went to the place of occurrence and prepared the Observation Mahazar (Ex-P2) and Rough Sketch (Ex-P5). He conducted inquest over the body of the deceased and the inquest report was marked as Ex-P6.

2.4 The body was despatched to the Government Hospital, Stanley Medical College, where, Dr.Muthunarayanan (PW6) performed autopsy and issued post-mortem certificate (Ex-P3). Dr.Muthunarayanan (PW6), in his evidence as well in the postmortem certificate (Ex-P3), has stated as follows:

"(b) The deceased would appear to have died of Asphyxia due to hanging."

2.5 However, during investigation, it came to light that Priyadarshini and Ram Santhosh (A1) were in love with each other for about 1½ years; the family of Ram Santhosh (A1) approached the family of Priyadarshini for marriage and both sides agreed for the same; however, the marriage proposal did not fructify, because, Ram Santhosh's (A1) family had demanded a dowry of Rs.2,00,000/- and 20 sovereigns of gold and further, they suspected the character of Priyadarshini; therefore, Priyadarshini was heart-broken and consequently, committed suicide.

2.6 On the aforesaid allegations, an alteration report (Ex-P7) was filed by the police, altering the case from Section 174 Cr.P.C. to 306 IPC.

2.7 After completing the investigation, the police filed a final report in P.R.C.No.87 of 2010 before the XV Metropolitan Magistrate Court, George Town, Chennai, for the offences under Sections 306 and 417 IPC, against Ram Santhosh (A1), his mother Kamala (A2) and his sister Suganthi (A3).

2.8 On appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with and the case was committed to the Court of Session in S.C.No.171 of 2011 and was made over to the Sessions Court (Mahalir Neethimandram), Chennai, for trial.

2.9 The trial Court framed charges for the aforesaid offences against the accused and when questioned, they pleaded "not guilty".

2.10 To prove the case, the prosecution examined eight witnesses and marked nine exhibits.

2.11 When the accused were questioned under Section 313 Cr.P.C. on the incriminating circumstances appearing against them, they denied the same. On behalf of the accused, no witness was examined nor any document marked.

2.12 After considering the evidence on record and hearing either side, the trial Court, by judgment and order dated 17.02.2012 in S.C.No.171 of 2011, acquitted Ram Santhosh (A1), Kamala (A2) and Suganthi (A3) of the offence under Section 306 IPC, but, convicted Ram Santhosh (A1) alone of the offence under Section 417 IPC and sentenced him to undergo one year rigorous imprisonment and to pay a fine of Rs.25,000/-, in default to undergo one month simple imprisonment.

2.13 Challenging the aforesaid conviction and sentence, Ram Santhosh (A1) is before this Court.

3. Heard Mr.S.L.Mahendran, learned counsel for Ram Santhosh (A1) and Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) for the respondent/State.

4. The respondent/State has rightly not chosen to file any appeal against the acquittal of the accused under Section 306 IPC.

5. For convicting a person under Section 417 IPC, the minimum requirement is that, the person should have had the mens rea to cheat the victim at inception.

6. Bearing in mind the aforesaid position of law, this Court now proposes to deal with the evidence of the prosecution witnesses.

7. Sumathi (PW1), mother of Priyadarshini, has, in her evidence stated that Priyadarshini completed her B.B.A., and was employed in Nokia company; two months prior to Priyadarshini's death, Ram Santhosh (A1) came to her (PW1's) house and said that he and Priyadarshini were in love with each other for over 1½ years and sought the hand of Priyadarshini; she (PW1) advised him (A1) to come with the elders of his family; accordingly, Ram Santhosh (A1) came along with his mother Kamala (A2) and his uncles and sought the hand of Priyadarshini; she (PW1) also agreed for the proposal; after a few days, she (PW1) went to the house of Ram Santhosh (A1) and there, Ram Santhosh (A1's) brother's wife (sister-in-law) picked up a quarrel with her (PW1) saying that she will not agree for the marriage and Ram Santhosh (A1) should marry her daughter only; she (PW1) was not able to meet Ram Santhosh (A1) in his house and thereafter, Ram Santhosh (A1) had gone missing; after a few days, Kamala (A2) and Suganthi (A3) came to her (PW1's) house and told her (PW1) that the whereabouts of Ram Santhosh (A1) were not known to them and stated that they suspected the character of Priyadarshini; on 24.10.2009, around 2.00 p.m., Priyadarshini committed suicide by hanging in the bedroom fan.

8. It may be relevant to state here that the accused were acquitted of the charge under Section 306 IPC and Ram Santhosh (A1) alone was convicted of the charge under Section 417 IPC.

9. The evidence on record shows that Ram Santhosh (A1) wanted to marry Priyadarshini, because, he was in love with her for about 1½ years. The marriage could not materialize, because Ram Santhosh (A1's) sister-in-law was putting spokes.

10. In fact, the evidence of Sumathi (PW1) shows that two months prior to the suicide of Priyadarshini, Ram Santhosh (A1) came to the house of Priyadarshini and sought her hand. At that time, Sumathi (PW1) advised him to come along with the elders of his family and he (A1) accordingly brought his mother Kamala (A1) and his uncles for negotiation. Only thereafter, the marriage proposal hit the road block due to the stand taken by Ram Santhosh's (A1's) sister-in-law.

11. That apart, it is not the case of the prosecution that Ram Santhosh (A1) had sex with Priyadarshini on the promise of marrying her and thereafter reneged, so as to attract Section 415 IPC. There is no material to show that Ram Santhosh (A1) did not have the intention to marry Priyadarshini when he fell in love with her. Otherwise, he would not have come twice, once alone and thereafter, with his family, to seek the hand of Priyadarshini.

In view of the foregoing discussion, this criminal appeal is allowed by setting aside the judgment and order dated 17.02.2012 passed in S.C.No.171 of 2011 on the file of the Sessions Court (Mahalir Neethimandram), Chennai. As a sequel, Ram Santhosh (A1) is acquitted of the charge under Section 417 IPC. Bail bond, if any, executed by him (A1) shall stand discharged. Fine amount paid, if any, shall be refunded.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

Nsd

To

1. The Sessions Judge,
(Mahalir Neethimandram),
Chennai.
2. The Inspector of Police,
H1-Washermenpet Police Station,
Chennai.

3. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

+lcc to Mr.S.L.Mahendran, Advocate, S.R.No. 86379

Cr1.A.No.232 of 2012

SV(CO)
GN(21/11/2019)