

Bail Slip

The Appellant/Accused, namely Ravi @ Raveendiran S/o. Kupusamy was released on bail dated 05.02.2012 in MP.NO.1/12 IN CRL A.NO.847/2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2019

CORAM:

THE HONOURABLE Mr. JUSTICE P.N.PRAKASH

Crl.A.No.847 of 2012

Ravi @ Raveendiran ... Appellant/Accused

Vs.

State represented by
The Inspector of Police,
All Women Police Station,
Neyveli. ... Respondent/Complainant

Criminal Appeal filed under Section 374 Cr.P.C. against the judgment and order dated 24.11.2012 passed in S.C.No.184 of 2012 on the file of the Mahila Court, Cuddalore District.

For Appellant : Mr.R.Gopinath

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 24.11.2012 passed in S.C.No.184 of 2012 on the file of the Mahila Court, Cuddalore District.

2. Minus the minute details, the facts germane which are just necessary for deciding this appeal are stated as under:

2.1 It is the case of the prosecution that the victim girl "X" (name not disclosed for the sake of anonymity), who was aged about 18 years, was in love with the appellant for about three years; on 13.03.2010, the appellant deflowered her on the promise of marrying her and thereafter, reneged. "X" became pregnant and when her family members approached the family of the appellant, the parents of the appellant demanded huge dowry, which, the family of "X" was not able to give.

2.2 On a complaint lodged by "X", the respondent/police registered a case in Crime No.8 of 2010 and after completing the investigation, filed a final report in P.R.C.No.28 of 2011 before the Judicial Magistrate Court No.III, Cuddalore, for the offences under Sections 417 and 376 IPC, against Ravi @ Raveendiran (A1), the appellant herein and Section 4 of the Dowry Prohibition Act, against Ravi @ Raveendiran (A1) and his parents Kuppusamy (A2) and Aarayi (A3).

2.3 The case was committed to the Court of Session in S.C.No.184 of 2012 and was made over to Mahila Court, Cuddalore, for trial. The Trial Court framed charges for the aforesaid offences and when questioned, the accused pleaded "not guilty".

2.4 To prove the case, the prosecution examined ten witnesses and marked five exhibits.

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

2.6 After considering the evidence on record and hearing either side, the Trial Court, by judgment and order dated 24.11.2012 in S.C.No.184 of 2012, acquitted Kuppusamy (A2) and Aarayi (A3), but, convicted and sentenced Ravi @ Raveendiran (A1) as follows:

Provisions under which convicted	Sentence
Section 417 IPC	One year rigorous imprisonment.
Section 376 IPC	Seven years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo six months rigorous imprisonment.

The aforesaid sentences were ordered to run concurrently.

2.7 Challenging the above conviction and sentences, the appellant has preferred the present criminal appeal.

3. Heard Mr.R.Gopinath, learned counsel for the appellant and Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) for the respondent/State.

4. Today Mrs.G.Sangeetha, WGr-I 1078, All Women Police Station, Neyveli, is present before this Court.

5. The appellant and "X" are also present and they are

identified by the police.

6. The learned counsel for the appellant submitted that the appellant married "X" on 02.05.2013 and the marriage was registered in the office of the Sub-Registrar, Kurinjipadi, in marriage Serial No.13/2013 on 10.05.2013. He also submitted that they have two children, viz., Lathisha (F-D.O.B-07.02.2014) and Bharani (M-D.O.B-14.02.2016) and they are living happily. They have also filed an affidavit, wherein, they have stated as follows:

"1. I, Ravi @ Raveendiran submit that I am the appellant herein and Mrs.Bhuvaneswari is my wife and as such we aware of the facts states hereunder. We submit that the subsequent to filing this appeal in Crl.A.No.847 of 2012, we got married on 02.05.2013 at Kamalakannan Thirumanamandabam, Pattai Street, Kurinjipadi Taluk, Cuddalore District and the same was duly registered on 10.05.2013, registered as Serial No.13 of 2013 in the office of Registrar of Marriages under the Tamil Nadu Registration of Marriages Act, 2009.

2. We further submit that subsequent to the marriage we are leading a happy married life, and we blessed with two children viz., 1) R.Lathisha; date of birth: 07.02.2014; and 2) Bharani; date of birth: 14.12.2016, the copies of Marriage Certificate and children's birth certificates were produced before this Hon'ble Court.

3. We further submit that we are living happily and this sworn affidavit is filed for the notice of this Hon'ble Court and lenience may be shown to Ravi @ Raveendiran."

7. This Court is conscious of the fact that the offence in question is not compoundable nor can the accused be acquitted, on the ground that, he subsequently got married to "X". Therefore, this Court perused the evidence on record.

8. "X", who was examined as PW1, in her evidence, has stated that she was in love with the appellant for about three years; one day, when they were together in the sugarcane field, the accused had sex with her; he did that several times thereafter, on account of which, she became pregnant, but, the foetus got aborted subsequently on its own. Dr.Vidhya (PW6), who medically examined "X", in her evidence as well in the medical report (Ex-P2), has stated that "X" was aged about 18-20 years. Thus, even according to the prosecution, "X" was not a minor when she had intimacy with the appellant. The incident in question had taken place prior to 03.02.2013 and hence, the amended provision of 376 IPC will not apply.

10. On reading the evidence of "X", it appears that she had consensual relationship with the appellant and hence, the conviction of the appellant under Section 376 IPC cannot be sustained. However, the conviction of the appellant under Section 417 IPC cannot be disturbed, since the marriage had taken place much later.

11. Coming to the quantum of sentence for the offence under Section 417 IPC, this Court is of the view that interests of justice will be served, if the sentence of one year rigorous imprisonment imposed by the Trial Court is reduced to the period of sentence already undergone by the appellant and it is ordered accordingly. The appellant is acquitted of the charge under Section 376 IPC.

In the result, this criminal appeal is partly allowed. The bail bond executed by the appellant shall stand cancelled. Fine amount, if any, paid by the appellant shall be refunded.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

nsd
To

1. THE MAHILA JUDGE,
MAHILA COURT & SESSION,
CUDDALORE DISTRICT.
2. THE JUDICIAL MAGISTRATE, III,
CUDDALORE
3. DO THRO THE CHIEF JUDICIAL MAGISTRATE, CUDDALORE
4. THE SUPERINTENDENT, CENTRAL PRISON, CUDDALORE
5. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NEYVELI.
6. THE PUBLIC PROSECUTOR,
MADRAS HIGH COURT,
CHENNAI - 104.

+1cc to Mr.R.Gopinath , Advocate SR.No. 80776

Cr1.A.No.847 of 2012

A.SK(02/12/2019)