

Bail Slip

The Appellant/Accused namely S.Subramanian S/o.Sukumar was released on bail vide order dated 21.11.2012 in MP.1/12 in Crl.RC.1272/12.

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 09.12.2019
CORAM
THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.R.C.No.1272 of 2012
and CRL.M.P.No.190 of 2020

S.Subramanian
S/o.Sukumar

.. Petitioner/Appellant
Accused

Vs

State rep. by
Sub Inspector of Police
E-4 Abiramapuram Police Station
Chennai

.. Respondent/Respondent
Complainant

Criminal Revision preferred under Section 397 and Section 401 Cr.P.C. to set aside the judgment and order dated 14.09.2012 passed by the II Additional Sessions Court, Chennai in C.A.No.21 of 2011 confirming the judgment and order dated 22.12.2010 passed by the XXIII Metropolitan Magistrate, Saidapet in C.C.No.6404 of 2008.

For Petitioner : Mr.V.T.Narendiran
For Respondent: Mrs.P.Kritika Kamal,
Govt. Advocate (Crl. Side)

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O R D E R

For the sake of convenience, the parties are referred to by their name.

2.The prosecution story is as follows :

2.1.Maheswari got married to Subramanian about 11 years prior to the occurrence and the couple was blessed with twins.

It is alleged that on 24.01.2008, around 03.00 p.m., Subramanian used criminal force on her for shaming her. Again on 26.01.2008, when Subramani's mother and sister questioned him, he is said to have assaulted them also.

2.2. On these allegations, a complaint was given by Maheswari (P.W.1), based on which, the police registered a case in Crime No.105 of 2008 and after completing the investigation, filed final report in C.C.No.6404 of 2008 before the XXIII Metropolitan Magistrate, Saidapet, Chennai against Subramanian for the offence under Sections 341, 354, 498-A, 323 (4 counts), 506(ii) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998 (for brevity "TNPHW Act").

2.3. On appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with and charges for the said offences were framed against him. When questioned, he pleaded 'not guilty'.

2.4. To prove the case, the prosecution examined ten witnesses and marked Exs.P1 to P9. No witness was examined nor any document marked on behalf of the accused.

2.5. After a full fledged trial in C.C.No.6404 of 2008, the trial Court, by judgment and order dated 22.12.2010, acquitted Subramanian of the offence under Section 498-A IPC, but, convicted and sentenced him as under :

Provision under which convicted	Sentence
Section 341 IPC	Pay fine of Rs.500/-, in default to undergo one month simple imprisonment
Section 323 IPC (4 counts)	Pay fine of Rs.500/- for each count, in default to undergo one month simple imprisonment for each count
Section 354 IPC	Six months rigorous imprisonment
Section 506(II) IPC	Six months rigorous imprisonment
Section 4 of TNPHW Act	Six months rigorous imprisonment

The aforesaid sentences were ordered to run concurrently. The appeal in C.A.No.21 of 2011 that was filed by Subramanian was dismissed by the II Additional Sessions Court, Chennai on 14.09.2012. Aggrieved by the concurrent findings of fact of the two Courts below, Subramanian has filed the present criminal

revision under Section 397 read with Section 401 Cr.P.C.

3. Heard Mr.V.T.Narendiran, learned counsel for Subramanian and Mrs.P.Kritika Kamal, learned Government Advocate (Crl. Side) appearing for the respondent State.

4. Mr. Narendiran submitted that Subramanian has rejoined Maheswari in the year 2015 and they are now happily living together with their twins. Hence, he prayed for compounding of the offences of Sections 354 and 506(II) IPC. He rightly did not plead for compounding of the offences of Section 341 and 323 IPC because, there are other injured persons in this case, including the mother and sister of Subramanian, who are not before this Court.

5. The charges under Section 354, 506(II) IPC and Section 4 of the TNPHW Act are only qua Maheswari.

6. Coming to Section 4 of the TNPHW Act, as rightly contended by Mr. Narendiran, the conviction cannot be sustained because, the alleged incidents on 24.01.2008 and 26.01.2008 had taken place inside the house of Subramanian and not in any of the places enumerated in Section 4 of the TNPHW Act. Therefore, the conviction imposed on Subramanian of the offence under Section 4 of the TNPHW Act is set aside and he is acquitted of the said charge.

7. Coming to the offences of Sections 354 and 506(II) IPC, Maheswari has filed an affidavit dated 09.12.2019, wherein, she has stated as follows :

"5. I submit that myself and my husband have reconciled and we have two daughters and I am decided to live together with my husband, the petitioner herein and I have no objection for filing the petition under Section 320 of Cr.P.C. therefore request that the imprisonment imposed on the petitioner u/s. 506 (II) & 354 of IPC to be condoned and compounded.

6. I therefore states that my husband has realised his mistakes and wants to lead a harmonious life with me and children and therefore this Hon'ble Court may be pleased to condone the offences u/s. 506(II) & 354 of IPC."

8. In view of the above, the conviction and sentence imposed on Subramanian of the offences under Sections 341 and 323 (4 counts) IPC stand confirmed. Subramanian is acquitted of the offence under Section 4 of the TNPHW Act. The offence under

Sections 354 and 506(II) IPC are compounded and Subramanian is acquitted of the said two charges. Fine if any paid, in respect of the charges under Sections 354 and 506(II) IPC, shall be refunded to Subramanian.

In the result, this Criminal Revision is partly allowed. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

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1.The II Additional Sessions Judge
Chennai

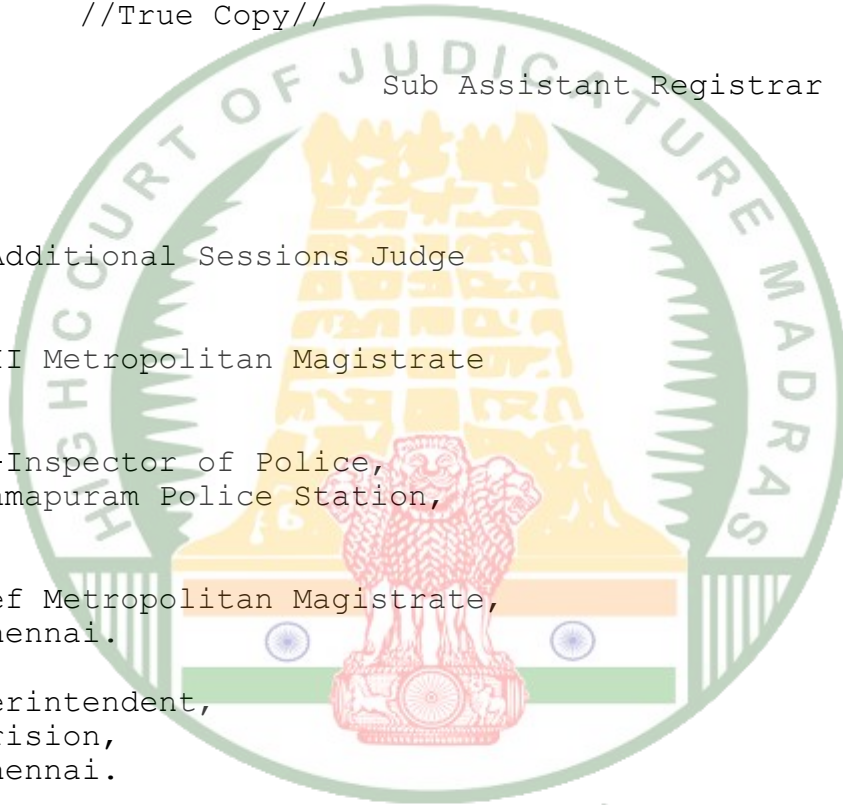
2.The XXIII Metropolitan Magistrate
Saidapet

3.The Sub-Inspector of Police,
E-4, Abiramapuram Police Station,
Chennai.

4.The Chief Metropolitan Magistrate,
Egmore, Chennai.

5.The Superintendent,
Central Prison,
Puzhal, Chennai.

6.The Deputy Registrar
Criminal Side
High Court, Madras



CRL.R.C.No.1272 of 2012

pvs(co)
nr 04/02/2020