

Bail Slip

The Appellant/Accused namely K. Srinivasan S/o.K.V. Kuppuswami was directed to be released on bail as per order of the Court dated 17.12.2012 in CrI.M.P. 1/2012 in CrI.R.C.No.1518/2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.R.C.No.1518 of 2012

K.Srinivasan .....Petitioner

Vs.

1. L.Ranganayagi

2. The Assistant Commissioner of Police,  
All Women Police Station, Ambur.  
(Crime No.9/2007)

...Respondents

This Criminal Revision filed under Sections 397 and 401 of Code of Criminal Procedure to set aside the judgment of the learned Additional District-cum-Sessions (Fast Track) Judge-III, Thirupathur, in C.A.No.2 of 2012 dated 11.09.2012, reversing the judgment of acquittal of the learned Judicial Magistrate, Ambur, in C.C.No.163 of 2007, dated 12.07.2011.

For Petitioner : Mr.A.Thiagarajan, Senior Counsel  
for Mr.S.Rameshkumar

For Respondents : Mr.Arun Anbarasu for R1  
Mr.T.Shanmugarajeswaran  
Govt. Advocate (CrI.Side) for R2

ORDER

The criminal revision has been filed against the judgment of the learned Additional District-cum-Sessions (Fast Track) Judge-III, Thirupathur, in C.A.No.2 of 2012 dated 11.09.2012, reversing the judgment of acquittal of the learned Judicial Magistrate, Ambur, in C.C.No.163 of 2007, dated 12.07.2011.

2 Case of the prosecution is that the petitioner/A1 had made promise to the victim that he would marry her and the victim believed the petitioner, since he is relative and he only made her to study Post Graduate Course. The first respondent/victim under the impression that the petitioner would marry her, had went outside with the petitioner and had physical relationship and when the first respondent/victim insisted him to marry her, he refused to do so. The petitioner along with seven others threatened her not to marry the petitioner.

3 Therefore respondent police registered a case in Crime No.9 of 2007 against the petitioner and 7 others for the offence punishable under Sections 417, 420, 493, 323, 506(2) of IPC against the petitioner/A1 and 420, 323, 506(2) r/w 34 and 109 of IPC against others i.e. A2 to A4. After completing investigation, the respondent police laid a charge sheet and the same was taken on file in C.C.No.163 of 2007. The learned Additional District Munsif-cum-Judicial Magistrate, Ambur, after trial, found all the accused not guilty of offence charged against them and by judgment dated 12.07.2011, acquitted all the accused. Aggrieved against the said judgment of acquittal, the victim/defacto complainant had filed an appeal and the same was taken on file in C.A.No.2 of 2012 by the learned Additional District and Sessions Judge III, Tirupathur, Vellore District. The learned Additional District and Sessions Judge, after hearing both the counsel and after perusing the records, by judgment dated 11.09.2012, set aside the judgment of acquittal of the petitioner and convicted him for the offence under Sections 417, 420 and 493 and confirmed the acquittal of the other accused. Accordingly imposed sentence against the petitioner to undergo rigorous imprisonment for a period of one year for the offence under Section 417, to undergo rigorous imprisonment for a period of three years with fine of Rs.2,000/-, in default, simple imprisonment for three months for the offence under Section 420 and to undergo rigorous imprisonment for a period of three years with fine of Rs.5,000/-, in default, simple imprisonment for three months. Assailing the reversal judgment of conviction, the petitioner is before this Court with the present criminal revision case.

4 According to learned Senior Counsel appearing for the petitioner, there is no evidence to show that the petitioner had promised to marry her and had physical relationship with the first respondent/ victim. The petitioner, being a relative, insisted the first respondent/victim to proceed higher studies and stated that later on he would marry her. The victim voluntarily accepted the petitioner and had physical relationship with him and therefore there is no room for cheating comes under Sections 417 and 420 of IPC. Further there

cannot be separate punishment for 420, when already imprisonment imposed on the petitioner for the offence under Section 417. Therefore, judgment of conviction passed by the learned Additional District and Sessions Judge III, reversing the judgment of acquittal, warrants interference.

5 The learned counsel appearing for the first respondent/ victim would submit that the petitioner is son of uncle of first respondent/victim. Before completing Under Graduate, there was no relationship between the victim and the petitioner. The petitioner insisted the victim to proceed higher studies and promised to marry her. The victim believing his words, since he is close relative and he only made her to study Post Graduate, had given consent for physical relationship, but, when the victim insisted him to marry her, he refused. The petitioner, used to visit the Hostel, where the victim was staying while studying Post Graduate Course and made the victim to believe the petitioner as a good sole and he only paid fee for her higher studies. Even though, the learned Magistrate has failed to consider the facts of the case and acquitted the petitioner, the lower appellate Court had set aside the judgment of acquittal made by the trial Court and convicted the petitioner, which does not call for any interference.

6 The learned Government Advocate (Crl.Side) appearing for the second respondent would submit that the petitioner made promise that he would marry the victim and believing his words, the victim had given consent for physical relationship. The petitioner is a close relative of the victim and he assisted her to proceed her higher studies. Cases like this, evidence of the victim girl would suffice to prove the case of the prosecution. The victim girl has clearly narrated the chain of incident before the Court below and there is no reason to disbelieve her evidence and the lower appellate Court had rightly convicted the petitioner, which is being well founded and there is no reason warranting interference of this Court.

7 Heard the learned counsel appearing on either side and perused the materials available on record.

8 On a perusal of the evidence of the victim girl/P.W.1, it reveal that the she has clearly stated that the petitioner made promise that he would marry her and had physical relationship with the victim at several occasions and thereby ingredients of Sections 417 and 420 are made out. The petitioner insisted the victim to proceed her higher studies and he only paid fee for the same and he visited the Hostel, where the victim was staying during her higher studies and they went outside for several times and at that time, they had physical relationship. Cases of this nature, the Court cannot expect

corroboration and evidence of victim girl would suffice to convict the accused. In this case, the victim had clearly narrated the entire incident, which has not been denied by the petitioner. The evidence of Doctor, P.W.7, would go to show that the victim had lost her virginity and hymen not intact. The learned Magistrate has failed to consider the above facts and erroneously acquitted the petitioner. The lower appellate Court, being a final Court of fact finding, had re-appreciated entire evidence independently and reversed the judgment of acquittal of the petitioner and convicted him, for which, has given cogent reasons. This Court, while exercising revisional jurisdiction, cannot re-visit the entire evidence and substitute its own views on the finding of the lower appellate Court, unless there exists perversity. On reading of the evidence of the victim girl and judgment of the lower appellate Court, this Court does not find any perversity and there is no reason to interfere with the judgment of conviction made by the lower appellate Court.

9 In the result, the criminal revision case is dismissed as devoid of merit and substance. The trial Court is directed to secure the custody of the petitioner to undergo remaining period of sentence, if any.

-s/d-

Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

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To

1. The Additional District-cum-Sessions  
(Fast Track) Judge-III, Thirupathur.
2. The Judicial Magistrate, Ambur.
3. The Additional Public Prosecutor, High Court of Madras.
4. The Assistant Commissioner of Police,  
All Women Police Station, Ambur.
5. The Chief Judicial Magistrate, Vellore.

+1 CC to Mr.Arun Anbumani, Advocate sr 65204.  
+1 CC to Mr.S.Rameshkumar, Advocate sr 64974

Cr1.R.C.No.1518 of 2012

LN(CO)  
SP(03/10/2019)