

Bail Slip

The Petitioner/Accused, namely Sekar S/o.Pakkirisamy Accused was granted bail in and by the order of this Court dated 21.11.2012 made in MP.NO.1/12 IN CRL RC.NO.932/2012 on the file of this Hon'ble court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.932 of 2012

Sekar

... Petitioner

Vs

The State rep by its
The Sub-Inspector of Police,
Keelaiyur Police Station,
Nagappattinam District.
(Crime No.48/2005)

.. Respondent

Criminal Revision Cases filed under Sections 397 and 401 Cr.P.C., praying to set aside the judgment dated 23.04.2012 in C.A.No.100 of 2010 passed by the learned Sessions Judge, Nagappattinam, partly modified the Judgment dated 03.09.2010 in C.C.No.153 of 2005 on the file of the learned Judicial Magistrate No.2, Nagappattinam.

For Petitioner : Ms.Greetha Senthilkumar

For respondent : Mr.T.Shanmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

This Criminal Revision Case has been filed to set aside the judgment dated 23.04.2012 passed in C.A.No.100 of 2010 by the learned Sessions Judge, Nagappattinam, partly modified the Judgment dated 03.09.2010 passed in C.C.No.153 of 2005 by the learned Judicial Magistrate No.2, Nagappattinam.

2. The respondent police registered a case in Crime No.48 of 2005 against the revision petitioner herein for the

offence under Sections 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998 and 506(ii) of IPC. After completing investigation, the respondent police laid a charge sheet before the learned Judicial Magistrate No.2, Nagapattinam and the same was taken on file in C.C.No.153 of 2005. After trial, the learned Judicial Magistrate found that the prosecution has proved its case beyond reasonable doubts and convicted the revision petitioner/accused by judgment dated 03.09.2010 and sentenced him to undergo 3 years Simple Imprisonment and fine of Rs.5,000/-, in default, 6 months Simple Imprisonment for the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998 and 3 months Simple Imprisonment for the offence under Section 506(ii) of IPC. Challenging the conviction and sentence, the accused filed an appeal in CrI.A.No.100 of 2010 before the learned District and Sessions Judge, Nagapattinam. After hearing the arguments, the learned Sessions Judge partly allowed the appeal on 23.04.2012 by modifying the sentence to one year instead of 3 years Simple Imprisonment for the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. There against, the accused preferred the present revision before this Court.

3. The learned counsel for the petitioner would submit that there is dispute between the petitioner and the father of the victim regarding the claim of Tsunami relief and therefore, they foisted a false case against the revision petitioner. Therefore, the judgments of the Court below warrants interference.

4. The learned Government Advocate (CrI. Side) appearing for the respondent would submit that PW-1 is the victim, PW-2/father of the victim and PW-3/friend of the victim. The victim belongs to the fisherman community and she was studying second year B.A at T.B.M.L. College at the time of occurrence. The revision petitioner/accused harassed her and teased her. PW-3 is the friend of PW-1, who is also accompanied PW-1 at the time of incident. When PW-1 preferred the complaint against the revision petitioner, he threatened her with dire consequences. The independent witness and other witnesses turned hostile. Though the eye-witness and the mahazar witnesses admitted the signature and PW-3 corroborated the evidence of PW-1, the lower Appellate Court found that the ingredients of Section 506 of IPC has not been made out, since PW-3 has not spoken anything about the threatening and therefore, set aside the conviction and sentence for the offence under Section 506(ii) of IPC, which does not warrant any interference.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent and also perused the entire materials available on record.

6. The case of the prosecution is that PW-1 was studying in second year B.A.English Literature at T.B.M.L. College, Poraiyar and she was staying in her aunt's house at Kutti Andiyur. The accused is the native of Vizhunthamavadi. When PW-1 was proceeding to her college along with one Ilamathi (PW-3) in a cycle, the revision petitioner/accused along with other people, who were waiting near bus stop, abused PW-1 and also her body parts, for which, PW-1 questioned the same, the accused took knife and threatened her with dire consequences. PW-1 went to her house immediately and informed the same to her father and thereafter, preferred a complaint against the revision petitioner/accused.

7. On reading of the evidence of PW-1/victim girl and PW-3, it is clear that Section 4 of Tamil Nadu Prohibition of Harassment of Women Act is made out. Though Section 506 (ii) of IPC is not made out, the Appellate Court has rightly set aside the judgment of the trial Court and also considering the nature of offence, it has modified the sentence for the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. On a reading of the evidence of PWs-1 to 3, this Court finds that there is no perversity in the appreciation of the evidence by the lower Appellate Court. This Court cannot sit in the arm chair of the Appellate Court and re-appreciate the entire evidence. This Court does not find any reason to interfere with the judgments of the Courts below.

8. In the result, this Criminal Revision Case is dismissed. The judgment dated 23.04.2012 in Crl.A.No.100 of 2010 passed by the learned District and Sessions Judge, Nagappattinam, is hereby confirmed. The Trial Court is directed to secure the petitioner to undergo remaining period of sentence, if any.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

KMI

To

1. The District and Sessions Judge,
Nagapattinam.

2. The Judicial Magistrate-II,
Nagapattinam.

3. Do thro the Chief Judicial Magistrate,,Nagapattinam

4. The Sub-Inspector of Police,
Keelaiyur Police Station,
Nagappattinam District.

5. The Public Prosecutor,
High Court, Madras-104.

6.The Superintendent
Central Prison,Trichy.

Copy to;

The Section Officer,
Criminal Section,
High Court,Madras

Cr1.R.C.No.932 of 2012

A.SK(22/10/2019)



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