

BAIL SLIP

Selvakumar, S/o.Kannan, was directed to be released on bail, vide order of this High Court dated 30.12.2013 made in M.P.NO.1 of 2013 in CRL.A.No.848 of 2013.

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.11.2019

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.A.No.848 of 2013

Selvakumar
S/o.Kannan

... Appellant/Accused

Vs.

State Rep. By
Inspector of Police
Tirupapuliyur Police Station
Cuddalore District
(S.C.No.20 of 2013)

... Respondent/Complainant

Prayer:- Criminal Appeal filed under Section 389 of the Code of Criminal Procedure to set aside the judgment dated 04.12.2013 made in S.C.No.20 of 2013 on the file of the Sessions Judge, Mahila Court, Cuddalore.

For Appellant : Mr.Bharath Kumar
For Respondents : Ms.P.Kritika Kamal
Government Advocate (Crl.side)

JUDGMENT

This Criminal Appeal has been preferred challenging the judgment dated 04.12.2013 passed by the Sessions Judge, Mahila Court, Cuddalore in S.C.No.20 of 2013.

2. It is the case of the prosecution that the appellant was in love with the victim girl Anitha, a minor girl and eloped with her on 16.09.2011, got married to her and had physical relationship with her. On these allegations, the appellant faced trial in S.C.No.20 of 2013 before the Mahila Court, Cuddalore for the offences under Sections 366 and 376 IPC. The appellant pleaded 'not guilty' to the charges and therefore, the prosecution examined 10 witnesses and marked Exs.P1 to P10. The victim girl Anitha, who was examined as PW4, turned hostile and stated that she went on her own accord with the appellant.

However, the trial Court by judgment and order dated 04.12.2013 in S.C.No.20 of 2013 acquitted the appellant of the offence under Section 376 IPC, but convicted him under Section 366 IPC and sentenced him to undergo 3 years rigorous imprisonment and fine of Rs.3,000/-, in default to undergo 6 months rigorous imprisonment. Challenging the conviction and sentence, the present appeal has been filed.

3. Today when the matter was taken up for hearing, learned counsel for the appellant and the learned Government Advocate (Crl.side) submitted that the appellant has married Anitha on 03.04.2014 and they have two children through the wedlock.

4. Today Mr.R.Anbazhagan, Sub-Inspector of Police, Tirupapuliyur Police Station is present. The appellant and Anitha are also present. Anitha has filed an affidavit dated 06.11.2019 wherein in Paragraph 3, she has stated as follows:

"3. I state even during the pendency of the proceedings, I got married to the Appellant Mr.K.Selva Kumar and out of wedlock, two children were born, namely Harini and Lokesh. Myself and the Appellant herein are living as husband and wife and leading a happy marital life. I do not want to pursue the criminal prosecution against my husband further. Unless this Hon'ble Court acquits my husband, the Appellant herein, myself and my children will be seriously prejudiced. In the interest of justice, this Hon'ble Court may compound the offence as against the Appellant."

5. On a reading of the evidence on record this Court does not find any material to sustain the conviction under Section 366 IPC especially in the light of the evidence of Anitha that she had a quarrel with her father and therefore, she went on her own accord with the appellant.

In such view of the matter, this Criminal Appeal is allowed and the conviction and sentence imposed by the Sessions Judge, Mahila Court, Cuddalore vide order dated 04.12.2013 in S.C.No.20 of 2013 is set aside. Fine, if any, paid by the appellant shall be refunded to him.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

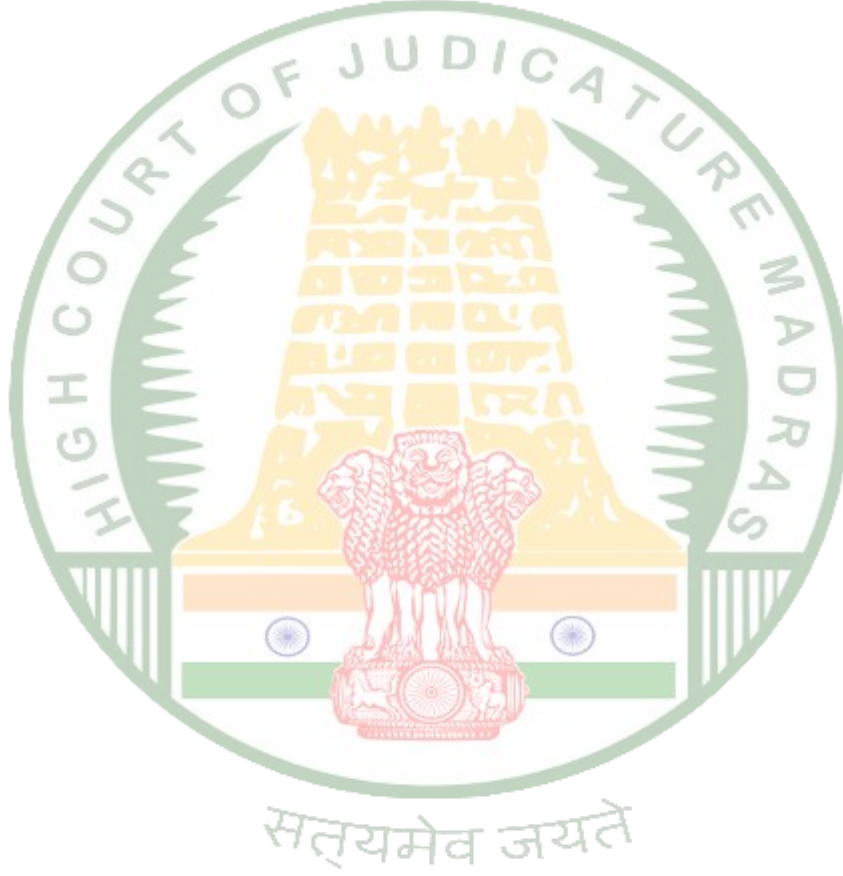
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To

1. The Sessions Judge,
Mahila Court, Cuddalore
2. The Public Prosecutor,
High Court, Madras - 600 104.

Crl.A.No.848 of 2013

MR (CO)
CS/17/12/2019



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