

Bail Slip

The Appellant/Accused, namely Rajesh @ Kattapillai S/o. Rajamanikam Accused in CRL RC .NO.294/2016 was directed to be released on bail as per order of this Court dated 23.12.2016 in CRL MP.NO.1974/2016 IN CRL RC.NO.294/2016.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 26.09.2019

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.RC.No.294 of 2016

Rajesh @ Kattapillai ... Petitioner

Vs

State rep by its
The Inspector of Police,
Kuthalam Police Station,
Nagapattinam District.
(Crime No.322/2011)

... Complainant

Prayer: Petition filed under section 397 and 401 of Cr.P.C, to call for the records in CA.No.11/2015, on the file of the Sessions Judge, (Fast Track Mahila Court, Nagapattinam) dated 17.11.2015, by confirming the conviction and sentence passed in C.C.No.81/2013, on the file of the Judicial Magistrate Court No.1, Mayiladuthurai.

For Petitioner : Mr.R.Shivakumar

For M/s.K.M.Vijayan Associates

For Respondent : Mr.M.Mohamed Riyaz, APP

ORDER

1. The Criminal Revision Petition has been filed, challenging the order passed by the Learned Special Judge, Fast Track Mahila Court, Namakkal in Crl.A.No.11 of 2015, dated 17.11.2015, confirming the conviction and sentence passed by the learned Judicial Magistrate Court No.I, Mayiladuthurai in C.C.No.81/2013.
2. The Trial Court finding that the petitioner guilty and convicting the petitioner for the offences under Sections 323, 506(ii) of IPC and under Section 4 of the Tamil Nadu Prohibition of the Harassment of Woman Act, 1998 and sentencing the petitioner to undergo Simple Imprisonment for Three Months for the offence under Section 323 of IPC

and to undergo Simple Imprisonment for Two Years for the offence under Section 506 (ii) of IPC and to undergo Simple Imprisonment for Two Years and to pay a fine of Rs.10,000/- in default to undergo Three Months Simple Imprisonment for the offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998, with following grounds.

3. The brief facts of the case is that the respondent police laid a charge sheet against the petitioner/accused, stating that on 24.05.2011, at about 5.00 p.m., when the victim girl/Kalaiarasi/P.W.2 was grazing her cattle in the canal situated at Aanangur Pakkori Mohammed field, the petitioner pushed her in the canal by holding her neck and removed her tops and innerwear and threatened her and thereby, causing simple injuries and criminally intimidated her and threatened to kill her if she discloses it to others, on the complaint given by the victim girl, a case was registered in Crime No.322/2011 and after completing investigation, the final report was filed against the accused for the offence under Section 323 and 506 (ii) IPC and under Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998.
4. On the side of the prosecution, P.Ws.1 to 6 were examined and Exs.P1 to P5 were marked. After completion of trial, when questioned, the petitioner had denied the charges however, no evidence has been let in on the side of the defence. The Trial Court finding the petitioner/accused guilty, convicted him as stated above. As against which, the petitioner/accused was filed CrI.A.No.11/2015 and the Appellate Court has also confirmed the judgment of conviction and sentence. As against the same, the present criminal revision has been filed.
5. The learned counsel for the petitioner/accused would submit that both the Courts below have erred in convicting the petitioner/accused and failed to appreciate the evidence of the prosecution in a proper perspective and have wrongly held the petitioner guilty and that the burden is on the prosecution to prove the case of the prosecution. The Courts below taking into consideration, the contradiction between the evidence of P.Ws.1 and 2 in respect of giving complaint P.Ws.1 and 3 are relatives of the victim girl and are interested in the prosecution and none of the private witnesses have supported the prosecution case. He would further submit that however, in the alteration if this Court, confirms the conviction would seek for modification of sentence.
6. Per Contra, the learned Additional Public Prosecutor, would submit that the Courts below, after careful analyzing the evidence on record found the petitioner guilty and convicted him and that the evidence of P.W.2 inspires confidence and the Courts below finding that the

prosecution has proved the case beyond all reasonable doubt had rightly convicted the petitioner/accused. He would further submit that the petitioner/accused committed serious acts of harassment on the victim girl P.W.2, he has pushed the victim girl in the canal by holding her neck and removed her tops and innerwear and by knocking her head to the floor, causes simple injuries and criminally intimidated her. The evidence of P.W.2 is corroborated by the evidence of P.Ws.1 and 2, who have seen the incident. Further, the prosecution has proved that the victim suffered injury by examining P.W.5/Doctor and marking the Accident Register Ex.P2, when incident had happened in a field near the canal while, the victim was grazing the cattle and that none examination of the independent witnesses will not effect the case of the prosecution.

7. This Court heard the submissions made by the both sides and carefully perused the evidence on record.
8. P.W.2 is the victim girl, she has categorically spoken about the incident. The evidence of P.W.2 is corroborated by the evidence of P.Ws.1 & 3. The Courts below had held that P.W.2 has clearly spoken about the occurrence further, she has also spoken about having sustained injury by the act of the petitioner/accused. The prosecution has by letting in cogent evidence has proved the case beyond all reasonable doubt. The Courts below after carefully analyzing the evidence have found the victim and convicted the petitioner/accused.
9. I do not find any error or perversity in the order of the Courts below, however, coming into the question of sentence. This Court is of the opinion that the sentence of imprisonment for two years for the offence under Section 506(ii) of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1988 is on the higher side. .
10. In view of the same, the criminal revision petition is partly allowed, while confirming the conviction and the sentence of imprisonment alone is modified from Two Years to one year. The Bail bond if any executed by the petitioner/accused, shall stand canceled. The Trial court shall take steps to secure the petitioner/accused to undergo the remaining period of sentence.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To:

1. The Sessions Judge, (Fast Track Mahila Court, Nagapattinam).
2. The Judicial Magistrate Court No.1, Mayiladuthurai.
3. The Inspector of Police, Kuthalam Police Station, Nagapattinam District.
4. The Public Prosecutor, High Court, Chennai.
5. Do thro the Chief Judicial Magistrate, Nagapattinam
6. The Judicial Magistrate, No.II, Mayiladuthurai

+lcc to Mr.Vijayan and Associates , Advocate SR.No. 83045

CrI.RC.No.294 of 2016

A.SK(18/12/2019)



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