

**Bail Slip**

The Appellant/ Accused namely Kalyanasundaram @ Sundar, was released on bail as per order of this Court dated 19.06.2012 made in MP(MD)No.2 of 2012 in CRL.A(MD)No.105 of 2012 on the file of this Court.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.A(MD)Nos.105 of 2012 and 205 of 2014

In Crl.A. (MD)No.105 of 2014:

Kalyanasundaram @ Sundar

... Appellant

Vs.

State through
The Deputy Superintendent of Police,
Thalavaipuram Police Station,
Virudhunagar District.
(In Cr.No.188/2004)

... Respondent

PRAYER: Criminal Appeal is filed under Section 374 of Cr.P.C., against the Judgment and Conviction passed by the learned Principal Sessions Judge, Virudhunagar District at Srivilliputhur in Spl.S.C.No.54 of 2009, dated 29.10.2011, the accused was convicted for the alleged offence under Section 417 of IPC to undergo six months simple imprisonment and further imposed a fine of Rs.3,00,000/- under Section 357(3) of Cr.P.C and directed to pay the said amount of P.W.1 and her male baby born to him within three months and in the event of failing, he is directed to undergo further period of two months simple imprisonment and acquitted for the offence under Section 376 of IPC r/w Section 3(2)(v) of SC/ST (POA) Act, 1989.

For Appellant

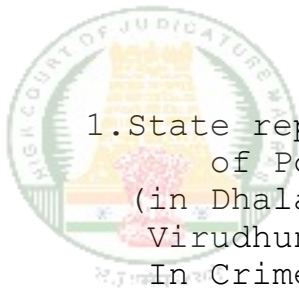
: Mr.Jagadeesh Pandian
for M/s.K.J.Associates

For Respondent

: Mr.A.Robinson
Government Advocate (Crl.side)**In Crl.A. (MD)No.205 of 2014:**

R.Mahalakshmi

... Appellant



1.State represented by Deputy Superintendent
of Police, Rajapalayam,
(in Dhalavaipuram Police Station,
Virudhunagar District.
In Crime No.188/04)

2.Kalyanasundaram @ Sundar

... Respondents

PRAYER: Criminal Appeal is filed under Section 374 of Cr.P.C., to set aside the order passed by the Court of the Principal Sessions Judge, Virudhunagar District at Srivilliputhur in S.C.No.54/2009, dated 29.10.2011 is illegal and liable to set aside in respect of acquitting the accused under Section 376 of IPC and 3(2)(V) of S.C & S.T (P.A) Act and Section 3 (1)(xii) of SC & ST (P.A) Act, 1989 and imposing the lesser punishment for the offence under Section 417 of IPC and allow this criminal revision petition.

For Appellant : Mr.G.Marimuthu

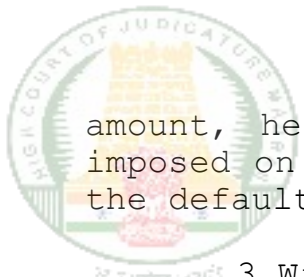
For R1 : Mr.A.Robinson
Government Advocate (Crl.side)

For R2 : Mr.Jagadeesh Pandian
for M/s.K.J.Associates

COMMON JUDGMENT

The appellant in Criminal Appeal (MD)No.105 of 2012 was convicted for the offence under Section 417 of IPC in Special S.C.No.54 of 2009 on the file of the Principal Sessions Judge, Virudhunagar, Srivilliputhur and sentenced to six months simple imprisonment. In this case, on account of intimacy between the appellant and the victim, a male child was born. In fact, the paternity of the appellant was established through DNA test (EX.P5). Therefore, the learned trial Judge awarded a sum of Rs.3,00,000/- as compensation to be paid. It is stated that the appellant had already paid a sum of Rs.1,50,000/-. In the mean while, the victim had also filed Criminal Appeal (MD)No.205 of 2014 seeking enhancement.

2.Having gone through the evidence on either side and after hearing both the counsel, I am of the view that the conviction of the appellant for the offence under Section 417 of IPC deserves to be confirmed. It is accordingly confirmed. The appellant had spent about fifty five days in jail. Therefore, the sentence of imprisonment imposed on him is modified and reduced to the period already undergone. This reduction is given taking note of the offer of the appellant to deposit the balance amount of Rs.1,50,000/- to the credit of Special.S.C.No.54 of 2009 on the file of the Principal Sessions Judge, Virudhunagar District, Srivilliputhoor, within a period of eight weeks from the date of receipt of a copy of this order. Upon such deposit, the victim-P.W.1 is entitled to withdraw the same. If the appellant fails to deposit the compensation



amount, he will have to undergo the balance term of imprisonment imposed on him for the substantive offence and he will also undergo the default sentence.

3. With this modification, the Criminal Appeal (MD) No. 105 of 2012 is partly allowed and the Criminal Appeal (MD) No. 205 of 2014 is disposed of.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

1. The Principal Sessions Judge,
Virudhunagar District, Srivilliputhur.
2. The Deputy Superintendent of Police,
Thalavaipuram Police Station,
Virudhunagar District.
3. The Superintendent, Central prison, Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy To

The Section Officer, Criminal Section/ Records, (2 COPIES)
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s. S. BALAKARTHICK, Advocate (SR-75809[F] dated 17/07/2019
+1CC TO Mr. G. M. LAW OFFICE, Advocate, sr No. 75891

Cr1.A (MD) Nos. 105 of 2012 and 205 of 2014
17.07.2019

rmi

MS/13.09.2019/3P.9C