



BAIL SLIP

The Petitioner/Appellant Mr.Madhavan, S/o.Selvaraj, Male, Aged 37 years was released on bail as per the order of this court made in MP(MD)1 of 2012 in Crl.A(MD)No.21 of 2012, dated 22.02.2012.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2019

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.A.(MD)No.21 of 2012

Madhavan

... Appellant

Vs.

State By
The Assistant Commissioner of Police,
Cantonment Range,
Trichy City.
(Crime No.46 of 2010)

... Respondent

Prayer: Criminal Appeals filed under Section 374(2) of Cr.P.C, to call for the records and set aside the order passed in S.C.No.72 of 2011 on the file of Sessions Judge, Mahila Court, Trichy, dated 09.02.2012 and allow the criminal appeal.

For Appellant : Mr.N.Sankar Ganesh

For Respondent : Mr.A.Robinson
Government Advocate (Crl. Side)

J U D G M E N T

The appellant was convicted for the offence under Section 498 (A) of I.P.C. and sentenced to undergo three years rigorous imprisonment and levied with fine of Rs.1,000/- vide judgment dated 09.02.2012 in S.C.No.72 of 2011, on the file of the learned Sessions Judge, Mahila Court, Trichirappalli. Questioning the same, this criminal appeal has been filed.

2.Heard the learned counsel on either side and perused the evidence on record.

3.It is seen that the appellant was originally charged with the offences under Sections 304(B), 302 and 498(A) of I.P.C. The learned Trial Judge acquitted the appellant of the offences under Sections 304(B) and 302 of I.P.C. but found him guilty only for the offence under Section 498(A) of I.P.C. It is seen that the appellant was married to the deceased in the year 2003. The



occurrence took place on 18.07.2010. Two children were born through the marriage. It is admitted by the prosecution witnesses themselves that children are being brought up only by the appellant even after the occurrence. The learned counsel appearing for the appellant on instructions submitted that it is the appellant, who is taking care of the children. It is further seen from the records that the deceased was having breast cancer and she was taking treatment in Government Hospital, Tiruchirappalli. Even though there are very many grounds in favour of the appellant, the learned counsel appearing for the appellant submitted that having regard to the evidence on record namely., the dying declaration in which, the deceased had expressed her grievances against the appellant, he would not challenge the finding of guilt for the offence under Section 498(A) of I.P.C. but he would only plead for modification in the matter of sentence.

4.The appellant is in orphan. The marriage between the two was a love marriage. The appellant is remaining single and has not remarried as on date. The children are only with the appellant. The appellant is eking out his livelihood by distributing gas cylinders. If the appellant is sent to prison, the children will become orphans. Therefore, even while sustaining the conviction, the sentence of imprisonment is modified and reduced to the period already undergone by him. With this modification in the matter of sentence the appeal is partly allowed. The bail bond, if any, executed by him shall stand cancelled.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To:

- 1.The Judicial Magistrate No.II, Trichy.
- 2.The Chief Judicial Magistrate, Trichy.
- 3 .The Sessions Judge,
Mahila Court, Trichy.
- 4.The Assistant Commissioner of Police,
Cantonment Range,
Trichy City.



5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai

copy to

The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai (2 copies)

+1 CC to Mr.N.SHANKAR GANESH, Advocate (SR-80686[F] dated
08/08/2019)

Crl.A. (MD) No.21 of 2012
08.08.2019

VB(29.01.2020) 3P 9C