

**BAIL SLIP**

Nadimuthu, Appellant/Accused No.1, Male, S/o.Rengasamy, Mathi, Appellant/Accused No.2, Female, W/o.NAdimuthu was released on Bail vide the order of this Court dated 06.12.2012 made in MP(MD)No.1 of 2012 in Cr1 A(MD)No.262 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1. A.(MD)No.262 of 2012

1. Nadimuthu

2. Mathi

... Appellants/Accused Nos.1 and 2

Vs.

State rep. by,
The Deputy Superintendent of Police,
Alangudi Sub Division,
Pudukkottai District.
(Crime No.221 of 2008)

... Respondent/Complainant

Prayer : This Criminal Appeal is filed under Section 374 of Cr.P.C., to call for the records relating to the Judgment dated 04.12.2012 made in S.C.No.15 of 2011 passed by the learned Principal District and Sessions Judge, Pudukottai and set aside the same and acquit the accused by allowing this appeal.

For Appellants : Mr.K.Baalasundaram

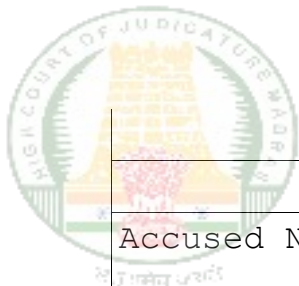
For Respondent : M/s.A.Robinson,

Government Advocate(Cr1. Side).

JUDGMENT

The appellants Nadimuthu and Mathi, W/o.Nadimuthu were convicted for the offence under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989 and Sections 294(b), 323, 354 and 506(i) of I.P.C. The appellants Nadimuthu and his wife Mathi were convicted and sentenced by the Court below as follows:-

Accused	Offence u/s.	Sentence
Accused No.1	3(1)(x) of the SC/ST Act	To undergo 4 years R.I. and fine of Rs.5,000/-, in default, 6 months R.I.
	294(b) of I.P.C.	3 months R.I.



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	323 of I.P.C.	6 months R.I.
	506(i) of I.P.C.	6 months R.I.
Accused No.2	3(1)(x) of the SC/ST Act	To undergo 4 years R.I. and fine of Rs.5,000/-, in default, 6 months R.I.
	294(b) of I.P.C.	3 months R.I.
	323 of I.P.C.	6 months R.I.
	354 r/w 3(1)(x) of the SC/ST Act	To undergo 4 years R.I. and fine of Rs.5,000/-, in default, 6 months R.I.

Aggrieved by the same, this Criminal appeal came to be filed.

2. When the matter was taken up for hearing, the defacto complainant Pragathambal appeared before me in person and stated that they had amicably resolved the issues between them. In fact a Joint Compromise Memo was also filed before this Court. But then, the offence under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989, cannot be compounded. Therefore, it will have to be independently seen, if the said charge was made out or not. It is seen that the defacto complainant turned hostile before the trial Court. In other words, Pragathambal did not support the prosecution case. Likewise all the eyewitnesses also turned hostile and did not support the prosecution case. Therefore, I fail to understand as to how the trial Court could have convicted the appellants. But then, the learned Government Advocate would submit that P.W.4 Rengasamy supported the case of the prosecution and he did not turn hostile. P.W.4 Rengasamy is a close relative of P.W.1 and he had stated that the appellants abused the defacto complainant by referring to her community. But then, when the so called victim/defacto complainant herself did not choose to support the prosecution case, convicting the appellants on the strength of the evidence of P.W.4 cannot be sustained.

3. In this view of the matter, the impugned Judgment is set aside and the Criminal Appeal is allowed. The appellants are acquitted of the charges. They are entitled to refund of the fine amount. The bail bond, if any, executed by them, shall stand cancelled. No costs.

Sd/-

Assistant Registrar (CS-III)

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To

1. The Principal District and Sessions Judge,
Pudukottai.

2. The Judicial Magistrate,
Alangudi

3. The Deputy Superintendent of Police,
Alangudi Sub Division,
Pudukkottai District.

4. The Superintendent,
Central Prison, Trichy

5. The Officer In-charge,
Women Central Prison, Trichy

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

Copy to

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

+1 CC to Mr.K.BAALASUNDHARAM, Advocate (SR-79601[F] dated
05/08/2019)

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