

**Bail Slip**

Ranjith Kumar, S/o.Sundararaj, Appellant/Sole Accused is released on bail as per the order of this Court dated 23.05.2012 made in MP(MD)No.1 of 2012 in CrI. A(MD)No.97 of 2012.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.A.(MD)No.97 of 2012

Ranjith Kumar

... Appellant/Sole Accused

Vs.

State by,
The Inspector of Police,
Taluk Police Station (In-charge),
All Women Police Station,
Sankarankovil,
Tirunelveli District.

... Respondent/Complainant

Prayer: Criminal Appeal is filed under Section 374 of Cr.P.C, to set aside the judgment and conviction passed by the learned Sessions Judge Cum Mahila Court, Tirunelveli in S.C.No.261 of 2010, dated 04.05.2012.

For Appellant : Mr.P.Mayil Rajaperumal

For Respondent : Mr.A.Robinson
Govt. Advocate (CrI. Side) for R1

J U D G M E N T

The appellant was found guilty of the offence under Sections 366, 342, 376 and 506(ii) of I.P.C. and sentenced vide judgment dated 04.05.2012 in S.C.No.261 of 2010, on the file of the learned Sessions Court Cum Mahila Court, Tirunelveli as follows:-



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Accused	Penal Provisions	Punishment
Sole Accused	366 IPC	To undergo five years rigorous imprisonment and to pay a fine of Rs.5,000/-. In default, to undergo three months rigorous imprisonment.
	376 IPC	To undergo ten years rigorous imprisonment and to pay a fine of Rs.10,000/-. In default, to undergo six months rigorous imprisonment.
	342 IPC	To undergo one year rigorous imprisonment.
	506(ii) IPC	To undergo two years rigorous imprisonment.

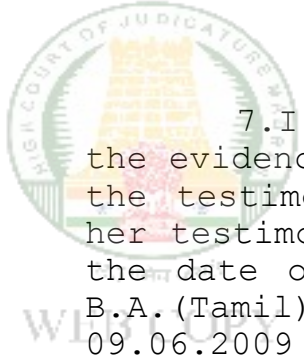
2.The prosecution case is that on 09.06.2009 at about 03.00 p.m., the appellant had abducted the victim/P.W.1 and took her to his house and had forcible intercourse with her and thereby committed the offence with which her was charged. In this regard, P.W.1/victim lodged Ex.P.1/complaint dated 11.06.2009, before the Inspector of Police, All Women Police Station, Sankarankovil, Tirunelveli District. Ex.P.11/FIR in Crime No.16 of 2009 was registered for the offence under Sections 376 and 506(ii) of I.P.C. Investigation was undertaken and final report came to filed against the appellant before the learned Judicial Magistrate, Sankarankovil. Cognizance of the offence was taken under Sections, 336, 342, 376 and 506(ii) of I.P.C. Since the case is exclusively triable by the Sessions Court, committal was made vide P.R.C.No.19 of 2010. The case was made over to the learned Sessions Judge, Mahila Court, Tirunelveli in S.C.No.261 of 2010. Four charges were framed against the appellant. Appellant pleaded not guilty and claimed to be tried.

3.The prosecution examined as many as 14 witnesses and marked Exs.1 to 14. M.O.1 to M.O.4 were also marked. On the side of the accused no evidence was adduced.

4.The learned Trial Judge by the impugned judgment found the appellant guilty and sentenced him as mentioned above. Challenging the same, this criminal appeal has been filed.

5.The learned counsel appearing for the appellant reiterated the contentions set out in the appeal memorandum and wanted this Court to reverse the impugned judgment.

6.Per contra, the learned Government Advocate (Crl. Side) submitted that the impugned judgment does not warrant any interference and wanted this Court to dismiss the appeal.



7.I carefully considered the rival contentions and perused the evidence on record. The sheet anchor of the prosecution case is the testimony of victim/P.W.1. This Court carefully went through her testimony. It is not in dispute that the victim was a major on the date of occurrence. In fact, she was studying third year in B.A.(Tamil). She would state that when she was returning home on 09.06.2009 after writing the examination, the appellant dragged her into his house, when she passing by his house. It was around 03.00 p.m. The appellant was also aged around 20 years. According to victim, the appellant was drunk at the time. If so, when the victim was dragged into the house, the victim would have certainly raised an alarm. Nothing of that kind appeared to have happened. The report before the police was only on 11.06.2009. The victim was sent for medical examination, P.W.8 was the Doctor, who examined the victim. He had clearly stated that there was nothing to indicate the victim was subjected to sexual intercourse in the recent past. In fact, from the testimony of P.W.8, one can come to the conclusion that the victim was not even habituated to any kind of sexual intercourse. Thus, the medical evidence completely belies the case of the prosecution. From a careful reading of the entire evidence on record, one can come to the conclusion that there was a love affair between the appellant and the victim and that due to parental opposition, the affair could not fructify and culminate in a marriage. In order to compel the boy's parents to agree for marriage, this complaint has been evidently lodged. From a careful reading of P.W.1's testimony, I cannot conclude that there was any forcible commission of sexual intercourse or rape. As already pointed out, the appellant was aged about 20 years and the victim was also aged about 20 years on the occurrence date. In this view of the matter, the conviction of the appellant for any of the offences with which he was charged cannot be sustained. The impugned judgment is set aside and the appellant is acquitted and the criminal appeal is allowed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To:

1.The Sessions Judge Cum Mahila Court,
Tirunelveli.

2.The Inspector of Police,
Taluk Police Station (In-charge),
All Women Police Station,
Sankarankovil, Tirunelveli District.



3.The Judicial Magistrate,
Sankarankovil,
Tirunelveli.

4.The Chief Judicial Magistrate,
Tirunelveli.

5.The Superintendent,
Central Prison,
Madurai.

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

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

+1 CC to Mr.MAYIL RAJA PERUMAL, Advocate SR-77533.

Cr1.A. (MD) No.97 of 2012
25.07.2019

CS(09.09.2019) 4P 10C