

Bail Slip

Appellant/Accused namely Kumar, aged about 37 years S/o.Krishna Nadar, was directed to be released on bail as per order of this Court dated 10.11.2010 and made in MP(MD)No.1 of 2010 in CrI. A. (MD)No.329 of 2010 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.SWAMINATHANCrI. A. (MD)No.329 of 2010

Kumar

.. Appellant/Accused

Vs.

State rep. by,
The Inspector of Police,
Vijaya Narayanam Police Station,
Tirunelveli District.
(Crime No.139 of 2006)

.. Respondent/Complainant

Prayer : This Criminal Appeal is filed under Section 374(2) of Cr.P.C., to admit this appeal on file, to call for the records from the Magalir Neethimandram, Tirunelveli District and to set aside the Judgment of the lower Court by acquitting the appellant in S.C.No.49 of 2009, dated 27.08.2010.

For Appellant : Mr.K.Prabhu

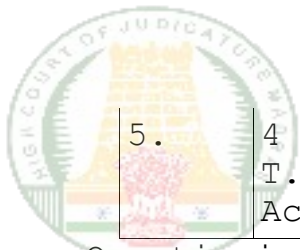
For Respondent: M/s.S.Bharathi,

Government Advocate(CrI. Side).

JUDGMENT

The appellant was convicted and sentenced by the Magalir Court, Tirunelveli in S.C.No.49 of 2009 as follows:-

S. No.	Section	Sentence	Fine amount	Default sentence
1.	450 I.P.C.	3 years R.I.	Rs.2,500/-	6 months S.I.
2.	506(i) I.P.C.	1 year R.I.	Rs.1,000/-	3 months S.I.
3.	376 of I.P.C.	7 years R.I.	Rs.15,000/-	1 year S.I.
4.	417 of I.P.C.	1 year R.I.	Rs.1,000/-	3 months S.I.



5.	4	of 3 years R.I.	Rs.10,000/-	1 year S.I.
	T.N.P.W.H. Act			

Questioning the same, this Criminal Appeal has been filed.

2. When the matter was taken up for hearing, it is submitted that the victim and the appellant are now living together. It is seen that the appellant had given a false promise to marry and that he had sexual relationship with the victim. The victim had conceived also. In fact when the case was registered, she was pregnant. A girl child was born and now the victim as well as the appellant are now living together. These are not compoundable offences. I have to necessarily sustain the conviction imposed on the appellant.

3. The appellant's counsel states that the appellant would continue to maintain the victim and the child. This undertaking is recorded. If the appellant breaches this undertaking, the victim is certainly entitled to file appropriate proceedings before this Court.

4. Taking note of the subsequent developments and also the undertaking given by the appellant before this Court, this Court even while sustaining the conviction, reduces the sentence of imprisonment imposed on the appellant to the period already undergone. It is seen that the appellant was in prison for about four months. The occurrence had taken place in the year 2006. During the relevant time, the statutory position was different. It enabled the Court for adequate and special reasons to be mentioned in the Judgment imposing the sentence of imprisonment for a term lesser than seven years. If I confirm the Judgment of sentence, the appellant will have to go to jail and the victim and child will not have any means of support. This is, in my view, an adequate and special reason for modifying and reducing the sentence.

5. With this modification in the Judgment of sentence, the Criminal Appeal stands allowed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Sessions Judge,

<https://hcservices.ecourts.gov.in/hcservices/>

Magisterial Court, Tirunelveli District.



2.The Judicial Magistrate, Nanguneri

3.Do Through The Chief Judicial Magistrate
Tirunelveli

4.The Superintendent, Central Prison
Palayamkottai

5. The Inspector of Police,
Vijaya Narayanam Police Station,
Tirunelveli District.

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

copy to

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

+1 CC to M/s.K.PRABHU, Advocate (SR-76108[F] dated 18/07/2019)

pmu

Crl. A. (MD) No.329 of 2010
17.07.2019

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