

**Bail Slip**

The Sole Appellant Subramanian, S/O Sivalingham, Sole Accused was directed to be release on Bail order of this Court on 08.11.2013 and made in M.P.No.1/2013 in CRL.A(MD)No.323 of 2013.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl A(MD)No.323 of 2013

Subramanian ... Appellant / Sole Accused

Vs.

1.State, rep.by
The Deputy Superintendent of Police,
Keeranur, Pudukkottai District.

2.The Inspector of Police,
Annavasal Police Station,
Pudukkottai District.
(Crime No.32 of 2011)

... Respondents / Complainants

Prayer : This Criminal Appeal is filed under Section 374 of Criminal Procedure Code, to set aside the judgment and conviction dated 10.10.2013 by the Mahila Court (Sessions Judge), Pudukkottai in S.C No.104 of 2012 and acquit the appellant.

For Appellant : Mr.S.Deenadhayalan

For Respondents : Mr.A.Robinson
Government Advocate (crl.side)

JUDGMENT

The appellant was convicted for the offence under Section 498 A IPC and sentenced to three years rigorous imprisonment vide judgment

dated 10.10.2013 in S.C No.104 of 2012 on the file of the Mahila Court (Sessions Judge), Pudukkottai.

2.The prosecution case is that the appellant got married to one Selvi on 12.11.2010. The said Selvi committed suicide by consuming poison on 10.03.2011. In this regard, the father of the deceased Chinnaiya lodged Ex.P1 complaint before the Annavasal Police Station leading to registration of Crime No.32 of 2011 under Section 174 of Cr.PC. Investigation was undertaken and final report came to be filed against the appellant before the Judicial Magistrate, Keeranur for the offence under Section 498 A and 306 IPC. The case was committed to the Sessions Court in PRC No.8 of 2012 and made over to the Sessions Judge/Mahila Court, Pudukkottai in S.C No.104 of 2012. Charges were framed against the appellant under both the provisions. The appellant denied the same and claimed to be tried. The prosecution examined as many as 12 witnesses and marked Exs.P1 to P9. On the side of the accused, no evidence was adduced. The learned Trial Judge acquitted the appellant in respect of the offence under Section 306 IPC but convicted him for the offence under Section 498 A IPC and sentenced him as mentioned above. Challenging the same, this appeal has been filed.

3.Heard the learned counsel on either side.

4.The only allegation made against the appellant is that he was having illicit intimacy with his brother's wife which led his wife to commit suicide. The learned Government Counsel appearing for the prosecution placed reliance on the decision of the Hon'ble Supreme Court reported in **(2018) 9 SCC 621 (Siddalang vs. The State)** in which it has been held that illicit relationship of the accused with another woman would definitely create a psychological imbalance in his wife and that it would attract the ingredients of Section 306 IPC. Of course, in this case, the appellant had been acquitted of the offence under Section 306 IPC. Therefore, this Court has to examine if the allegation of illicit relationship with another woman has been established or not.

5.As rightly pointed out by the learned counsel appearing for the appellant that the FIR is wholly silent on this. Apart from PW.1 and PW.3, no one else spoke about the same. But, the Revenue Divisional Officer/PW.11 who held the inquest deposed that in his enquiry neither PW.1 nor PW.23 spoke about the illicit relationship of the appellant with his brother's wife. Therefore, I am of the view that the same has subsequently been brought in to strengthen the case against the appellant. If this Court comes to the conclusion that the appellant was having illicit relationship with his brother's wife, that would cast serious stigma on the another woman. It involves the honour of the another woman who is not before this Court.

6.1 am of the view that the impugned judgment is liable to be set aside. Accordingly it is set aside. This criminal appeal is



allowed. The fine amount remitted by the appellant shall be refunded to him. The bail bond executed by the appellant shall stand cancelled.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

- 1.The Sessions Judge/Mahila Court, Pudukkottai.
 - 2.The Judicial Magistrate, Keeranur, Pudukkottai District.
 - 3.The Chief Judicial Magistrate, Pudukkottai District.
 - 4.The District Sessions Judge, Pudukkottai District.
 - 5.The Deputy Superintendent of Police,
Keeranur, Pudukkottai District.
 - 6.The Inspector of Police, Annavasal Police Station,
Pudukkottai District.
 - 7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1 CC to M/s.D. RAMESHKUMAR, Advocate (SR-83446[F] 27/08/2019)

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26.08.2019

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