



Crl.A.(MD)No.327 of 2013

Bail Slip

Kannan, Male S/o.Issac @ Eswaran, Appellant/Accused was released on bail in and by the order of this Court dated 18.11.2013 made in MP(MD) No.1 of 2013 in Crl. A(MD)No.327 of 2013.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.A. (MD)No.327 of 2013

Kannan

... Appellant/Single Accused

Vs.

State rep by
The Inspector of Police,
Puliyangudi Police Station,
Tirunelveli District.
(Crime No.369/2010)

... Respondent/Complainant

Prayer: Criminal Appeal filed under Section 374(2) of Cr.P.C, to set aside the conviction and sentence passed against the appellant by the learned Sessions Judge, Mahalir Neethimandrum, Tirunelveli in S.C.No.8 of 2012, dated 05.11.2013 and acquit the appellant.

For Appellant : Mr.R.Mathiyalagan

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 452 and 354 of I.P.C. vide judgment dated 05.11.2013 in S.C.No.8 of 2012, on the file of the learned Sessions Judge, Mahalir Neethimandrum, Tirunelveli.

2.The prosecution case is that the appellant trespassed into the house of the victim on 20.09.2010 at about 04.00 p.m. and attempted to commit rape on her. In this regard, action was not taken immediately. The victim moved the District Collector, Tirunelveli and also gave a petition to the learned Judicial Magistrate, Sivagiri. Thereupon, Crime No.369 of 2010 was registered on the file of Puliyangudi Police Station for the offence under Section 376 r/w. 511 of I.P.C. Investigation was undertaken and final report came to be filed against the appellant under Sections 452 and 376 r/w. 511 of I.P.C. before the learned Judicial Magistrate, Sivagiri. Cognizance of the offences was taken and the case was committed to Sessions Court vide P.R.C.No.6 of 2011. The



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case was made over to the file of the learned Mahalir Neethimandrum, Tirunelveli in S.C.No.8 of 2012. Charges were framed under the both provisions. The appellant pleaded not guilty to the charges and claimed to be tried.

3.The prosecution examined as many as six witnesses. Exs.1 to 7 were marked.

4.The learned Trial Judge after a detailed consideration of the evidence on record while acquitting the appellant for the offence under Section 376 r/w 511 of I.P.C. convicted the appellant for the offences under Sections 452 and 354 of I.P.C. and sentenced him to undergo one year simple imprisonment and levied with fine of Rs.5,000/- for the offence under Section 452 of I.P.C. and he sentenced him to undergo one year simple imprisonment was levied with fine of Rs.20,000/- for the offence under Section 354 of I.P.C. Challenging the same, this criminal appeal came to be filed.

5.The victim was examined as P.W.1. in this case. It is necessary to point that the victim was a woman aged about 80 years on the other hand the appellant was aged about only 24 years. The victim absolutely had no motive whatsoever to falsely implicate the appellant. The victim's testimony is amply corroborated by P.W.2, who is running a tea stall in the neighbourhood. In fact, P.W.2 suffered bite injury on his thigh when he attempted to catch-hold of the appellant. Having regard to the evidence on record, the learned counsel appearing for the appellant submitted that he will not challenge the finding of guilt and he would be satisfied if leniency is shown in the matter of punishment. In this case, a sum of Rs.25,000/- was levied as fine on the appellant. Out of the said amount, Rs.15,000/- was ordered to be paid as compensation to the victim. The appellant had paid the fine amount. He had spent some time in prison. Therefore, I am of the view that the sentence of imprisonment can be modified and reduced from one year simple imprisonment to one month simple imprisonment. The appellant will have to undergo the sentence over and above the period of incarceration, which he might have undergone. In other words, the appellant will not be entitled to the benefit of set off in terms of Section 428 of Cr.P.C. With this modification in the matter of sentence, this criminal appeal is partly allowed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

Sub Assistant Registrar(CS)



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To:

1.The Sessions Court,
Mahalir Neethimandrum,
Tirunelveli.

2.The Inspector of Police,
Puliyangudi Police Station,
Tirunelveli District.

3.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)

+1 CC to Mr.M.RAMESH, Advocate SR-82104.

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