

**Bail Slip**

The Appellant/Accused viz., M.Murugan, S/o.Malaichami, was released on bail as per the order dated 10.12.2013 made in MP(MD)No.1/2013 in CrI A(MD)No.356/2013(accused not in jail)

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**DATED: 27.08.2019****CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****CrI.A.(MD)No.356 of 2013**

Murugan

... Appellant/Sole Accused

Vs.

1.State represented through
The Inspector of Police,
Chekkanoorani Police Station,
Madurai District.

2.The Deputy Superintendent of Police,
Usilampatti Sub Division,
Madurai District.

... Respondents/Complainants

Prayer: Criminal Appeal filed under Section 378 of Cr.P.C, to set aside the judgment dated 29.11.2013 in Spl. Sessions Case No.47 of 2012, on the file of the III Additional District Judge (PCR), Madurai and acquit the appellant/accused from all charges.

For Appellant : Mr.K.Sudalaiyandi
For Respondents : Mrs.S.Bharathi
Govt. Advocate (CrI. Side)

J U D G M E N T

The appellant was convicted and sentenced by the impugned judgment dated 29.11.2013 in Spl.S.C.No.47 of 2012, on the file of the learned III Additional District Judge (PCR), Madurai, as follows:-

Accused	Penal Provisions	Punishment
Sole Accused	447 IPC	To undergo imprisonment for one month R.I with fine of Rs.100/-. In default, to undergo 7 days S.I.
	354 IPC	To undergo imprisonment for six months R.I with fine of Rs.250/-. In default, to undergo one month S.I.

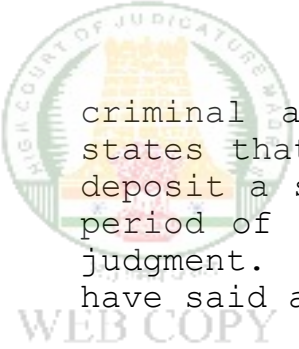
Challenging the same, this criminal appeal has been filed.

2.The case of the prosecution is that on 06.06.2012 at about 09.30 p.m., the appellant trespassed into the house of the defacto complainant and misbehaved with her. In this regard, the husband of the victim lodged Ex.P.1/complaint before Chekkanoorani Police Station, on the next day, leading registration of FIR in Crime No.203 of 2012 (Ex.P.5) for the offence under Section 294(b) and 354 of I.P.C. r/w 3(1)(xi) of Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act. Investigation was conducted by P.W.9. He filed the final report against the appellant before the learned Judicial Magistrate No.I, Usilampatti. Cognizance of the offences was taken and the case was committed to Sessions Court. It was taken up for trial in Spl.S.C.No.47 of 2012, on the file of the learned III Additional District Judge (PCR), Madurai.

3.The learned counsel appearing for the appellant submitted that he is maintaining that the appellant as innocent but without prejudice to his contentions and irrespective of outcome of this appeal, he would deposit a sum of Rs.10,000/- to the credit of Spl.S.C.No.47 of 2012, on the file of the learned III Additional District Judge (PCR), Madurai, so that it can be paid as compensation to the victim. This submission made by the learned counsel for the appellant is placed on record.

4.The learned counsel for the appellant submitted that Ex.P.1/complaint as well as Ex.P.5/FIR reached the Court concerned only on 18.06.2012. The delay of 11 days on the face of it is inordinate and has not been explained. The learned counsel for the appellant drew my attention to the decision of the Honourable Supreme Court reported in **(2001 Crl.L.W. 1176, State of Rajasthan Vs. Teja Singh and another)**, in which it was observed that the requirement of law is that the FIR should reach the concerned Magistrate without any undue delay. In this case the delay of 11 days has to be necessarily construed as an undue delay and there absolutely is no explanation whatsoever forthcoming from the prosecution.

4.It is also seen that the scene of occurrence has also not been clearly established. In the charge, it is mentioned that the victim was residing in Samathuvapuram. But then, in the complaint as well as testimony, she had stated that she is residing in a colony house. She further admitted that there is distance of two kilo meters between colony houses and Samathuvapuram. In her testimony, the victim would claim that when she was taking bath, the incident occurred but the same is not finding mention in the complaint. It is also been elicited that the husband of the victim/P.W.2 was working in the agricultural field of the appellant and a suggestion has been put to the effect that there was some dispute regarding the payment of wages. In fact, it was suggested that since the land was taken from P.W.2, he lodged a false complaint. The Court below has not properly appreciated these circumstances. The learned counsel appearing for the prosecution particularly, the delay of the FIR in reaching the Court. For these reasons, the impugned judgment is set aside and the appellant is acquitted and the



criminal appeal stands allowed. The appellant's counsel fairly states that even though the appellant has been acquitted, he would deposit a sum of Rs.10,000/- as compensation to the victim within a period of eight weeks from the date of receipt of a copy of this judgment. Thereupon, the learned Trial Judge shall take steps to have said amount disbursed to the victim.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The III Additional District Court, (PCR)
Madurai.
2. The District Munsif Cum Judicial Magistrate, No.I,
Usilampatti.
3. The Deputy Superintendent of Police,
Usilampatti Sub Division,
Madurai District
4. The Inspector of Police,
Chekkanoorani Police Station,
Madurai District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to: The Section Officer,
Criminal Section/Records, (2 Copies),
Madurai Bench of Madras High court, Madurai

+1 CC to Mr.K. SUDALAI YANDI, Advocate (SR-83620[F] dated 27/08/2019)

Crl.A.(MD)No.356 of 2013
27.08.2019

IAS

MK (30.09.2019) 3P 9C