

**BAIL SLIP**

The Appellant/Accused namely Selvaraj was released on bail as per order of this court dated 17.09.2014 and made in MP(MD)No.1 of 2014 in CrI.A (MD)267 of 2014 on the file of this Court.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.12.2019**

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR**CrI.A. (MD)No.267 of 2014**

Selvaraj

.. Appellant/ sole accused

Vs.

The State through
rep. by The Inspector of Police,
Meemisal Police Station,
Pudukkottai District.
Crime No.62 of 2012

.. Respondent/complainant

PRAYER: Petition filed under Section 374 of Criminal Procedure Code, to set aside the judgment and conviction passed by the Mahila Court, Pudukkottai in S.C.No.125 of 2012 dated 14.08.2014 and acquit the appellant herein.

For Appellant

: Mr.P.Veerapandi for
M/s.G.Thalaimutharasu

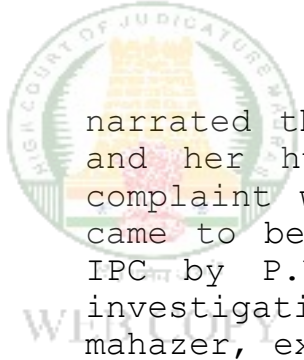
For Respondent

: Mr.K.Suyambulinga Bharathi,
G.A., (CrI. Side)**JUDGMENT**

The appellant is the single accused in this appeal. He was charged for the offence under Sections 354 and 307 of I.P.C. The trial Court, by its judgment dated 14.08.2014, found the appellant not guilty for the offence under Section 307 IPC acquitted and found the appellant guilty for the offence under Section 354 IPC sentenced him to undergo 2 years RI and to pay a fine of Rs.10,000/- in default to undergo 3 months SI. Against the said conviction and sentence, this present appeal has been filed.

2.The prosecution, in this case, has examined P.Ws.1 to 8 and marked Exs.P1 to 5 in this case.

3.The case of the prosecution is that on 20.07.2012 at about 05.30 p.m., when P.W.1 gone to Oorani to fetch potable water, the appellant is said to have approached from her behind, caught hold of her with his left hand and made advancements, which was resisted by P.W.1, the appellant pushed her into the water with an intention to kill her. On hearing the cry, P.W.2, brother-in-law of P.W.1 rushed there and on seeing him, the appellant fled away. Thereafter, P.W.1

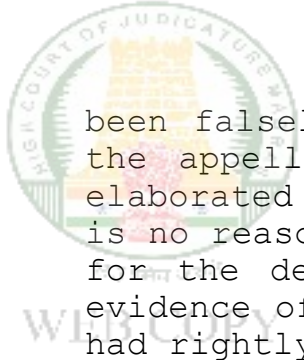


narrated the happenings to her brother-in-law P.W.2, brother P.W.4 and her husband. Since it had become late by that time, the complaint was lodged on the next day to the respondent and a case came to be registered for the offences under Sections 354 and 307 IPC by P.W.7. Thereafter, P.W.8, Inspector of Police took up investigation, visited the scene of occurrence, prepared observation mahazer, examined witnesses to the occurrence. Thereafter, arrested the accused, recorded the confession statement and after completion of investigation, he filed the charge sheet in this case.

4.The contention of the appellant is that the appellant had lost his right hand in an accident, which is an admitted fact and he is only with left hand. In such physical condition, the appellant could not have committed the offence as alleged by the prosecution. The witnesses are all motivated witnesses and relatives. P.W.1 is the victim, P.W.2 is her brother-in-law and P.W.4 is the brother of P.W.1. P.Ws.3,5 and 6 are all relatives, who supported P.W.1 blindly not knowing the real facts. The lower Court admitted P.W.1 is the only witness to speak about the occurrence proper, the other witnesses viz., P.Ws.2 to 4 came to know about the incident only through P.W.1. Further, the lower Court disbelieved the evidence with regard to the offence under Section 307 IPC acquitted the appellant and in view of the same, on coming to the conclusion that P.W.1 was exaggerating and the other witnesses merely supported the evidence of P.W.1 giving benefit of doubt acquitted the appellant from offence under Section 307 IPC, the same benefit to be extended to the appellant for the offence under Section 354 IPC also. But, on a wrong premise, the lower Court convicted the appellant for the offence under Section 354 IPC. Hence, he prayed for allowing the appeal.

5.The learned Government Advocate (criminal side) submitted that in this case, P.W.1 is the victim, P.W.2 is her brother-in-law and P.W.4 is the brother of P.W.1. These witnesses are natural and corroborated to each other. P.W.1 being a lady gone to fetch water in a Orrani at evening hours, the appellant knowing tat she was alone in an isolated place, approached her with an intention to outrage her modesty and when she resisted, she was attempted to be pushed into the water to suffocate her to death and hearing the cry, P.W.2 who was in the nearby field came to the scene of occurrence, on seeing P.W.2, the appellant fled away. P.W.4 is the brother, who had written the complaint Ex.P1, to whom P.W.1 narrated the happenings and thereafter, P.Ws.1,2 and 4 gone to the police station and P.W.7 registered FIR, Ex.P4. P.W.3 is the witness for the arrest and confession. P.Ws.5 and 6 are observation mahazer witnesses. In this case, the trial Court rightly appreciated the evidence convicted the appellant for the offence under Section 354 IPC, which need not be interfered with.

6.Considering the rival submission and perusal of the materials, this Court finds that the evidence of P.W.1 seems to be natural and there is no motive to attribute that the appellant had



been falsely implicated. Though a feeble attempt has been made by the appellant to show that there was some motive, which was not elaborated and could not be substantiated with any materials. There is no reason for P.W.1 to falsely implicate the appellant. Further, for the delay in lodging the complaint, in Ex.P1 as well as the evidence of P.W.1 explanation and reason is given. The trial Court had rightly appreciated the evidence and acquitted the appellant for the offence under Section 307 IPC and convicted under Section 354 IPC. In view of the same, this Court finds no reason to interfere with the findings of the trial Court. However, considering the fact that the appellant has got amputated right hand and he has to take care of his two school going children and to support his family, the sentence imposed against the appellant shall be modified.

7. Accordingly, this criminal appeal is partly allowed and the conviction passed by the Mahila Court, Pudukkottai in S.C.No.125 of 2012 dated 14.08.2014 finding the appellant found guilty for the offence under section 354 is confirmed and the sentence is concerned, the learned Government Advocate (criminal side) submits that accused was in jail for the period from 21.07.2012 to 20.09.2012. Considering the nature of the offence, the sentence alone is modified and the appellant is sentenced to undergo two months SI for the offence under Section 354 IPC and the fine of Rs.10,000/- imposed by the trial court is confirmed. The period already undergone by the appellant shall be given set off.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate, Aranthangi

2. The Inspector of Police,
Meemisal Police Station,
Pudukkottai District.

3. The Mahila Court,
Pudukkottai

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

+1 CC to Mr.P.VEERAPANDI, Advocate (SR-103165[F] dated 03/12/2019)

Crl.A. (MD) No.267 of 2014

03.12.2019