

Bail Slip

The Petitioner/Accused viz Karthik was directed to be released on bail as per order of this Court dated 30.04.2013 and made in Crl MP No.1/2013 in Crl.A.No.358 of 2013.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2020

CORAM :

THE HONOURABLE Mr.JUSTICE P.N. PRAKASH

Crl.A.No.358 of 2013

Karthik Appellant

Vs.

The State rep. by
Inspector of Police,
F-5 Choolaimedu Police Station,
Chennai - 600 094. Respondent

Prayer : Criminal Appeal filed under Section 374(2) Cr.P.C., praying to set aside the judgment of conviction and sentence dated 22.04.2013, passed by the Sessions Judge, Mahila Court, Chennai, in S.C.No.450 of 2012.

For Appellant : Mr.R.Vijayakumar

For Respondent: Mrs. Kritika Kamal. P.
Government Advocate (Crl. Side)

J U D G M E N T

This Criminal Appeal has been filed to set aside the judgment of conviction and sentence, dated 22.04.2013, passed by the Sessions Judge, Mahila Court, Chennai, in S.C.No.450 of 2012.

2. It is the case of the prosecution that the appellant was in love with Manimegalai (PW-2), who was a minor, kidnapped her from her lawful guardianship on 11.02.2012. On the complaint (Ex.P1) given by Karmegam (PW-1), the father of Manimegalai, Vijayalakshmi (PW-5), Sub Inspector of Police registered a case of in Crime No.172 of 2012 on 12.02.2012 and investigation of the case was taken over by Giri (PW-6), Inspector of Police. Manimegalai (PW-2) was secured on 13.02.2012 and the case was altered to one

under Section 366A IPC vide Alteration Report (Ex.P6). After completing the investigation, the police filed a final report in PRC.No.79 of 2012 in the Court of the XVII Metropolitan Magistrate, Saidapet for the offence under Section 366A IPC against the appellant. The case was committed to the Court of Session in SC.No.450 of 2012 and was made over to the Mahila Court, Chennai for trial. The Trial Court framed charges under Section 366A and 365 IPC against the appellant, who pleaded 'not guilty'.

3. To prove the case, the prosecution examined 6 witnesses and marked Exs.P1 to P9.

4. When the appellant was questioned under Section 313 Cr.P.C, he denied the allegations, but contended that he has married Manimegalai (PW-2) on 25.05.2012. No witness was examined from the side of the appellant.

5. After considering the evidence on record and hearing either side, the Trial Court, by judgment and order dated 22.04.2013, in S.C.No.450 of 2012, acquitted the appellant of the charge under Section 365 IPC, but convicted him of the charge under Section 366A IPC and sentenced him to undergo one month rigorous imprisonment and to pay fine of Rs.1,000/-, in default, to undergo simple imprisonment for one week. Challenging the aforesaid conviction and sentence, the appellant is before this Court.

6. Heard Mr.R.Vijayakumar, learned counsel for the appellant and Mrs.P.Kritika Kamal, learned Government Advocate (Crl. Side) for the respondent.

7. This appeal deserves to be allowed on the short ground that Manimegalai (PW-2) has stated in her evidence that she had not gone away with the appellant, but she had gone to her friend's house and stayed there for two days and her father thought that she had ran away and had given the police complaint. She has further stated that her date of birth is 08.08.1992 and not 08.08.1995 as projected by the prosecution. She has further stated that she got married to the appellant on 25.05.2012 and they are living happily. Karmegam (PW-1), the father of Manimegalai and Lakshmi (PW-3), the mother of Manimegalai had stated that the date of birth of Manimegalai is 08.08.1992 and for getting admission in the school, they had given her date of birth as 08.08.1995. The birth certificate of Manimegalai was not filed by the prosecution, but her Transfer Certificate was marked as Ex.P3 in order to show that her date of birth is 08.08.1995.

8. Be that as it may, the evidence on record shows that the appellant had not taken Manimegalai (PW-2) as alleged by the prosecution on 11.02.2012 and that she had gone on her own accord to her friend's house, which her parents had misconstrued, resulting in giving of police complaint.

9. In the result, this Criminal Appeal is allowed and the judgment of conviction and sentence dated 22.04.2013 in SC.No.450 of 2012 passed by the learned Sessions Judge, Mahila Court, Chennai, is hereby set aside. The appellant is acquitted of the charge for the offence under Section 366A IPC. Fine amount, if any paid by the appellant, shall be refunded to him. Bail bond, if any, executed by the appellant, shall stand discharged.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

kmi

To

- 1.The Sessions Judge,
Mahila Court, Chennai.
- 2.The Inspector of Police,
F-5 Choolaimedu Police Station,
Chennai - 600 094.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Deputy Registrar |
(Criminal Section), |with a direction to send back the
High Court, Madras. |original records to the trial Court
- 5.The XVII Metropolitan Magistrate,
Saidapet, Chennai.
6. The Chief Metropolitan Magistrate,
Egmore, Chennai.

CrI.A.No.358 of 2013

MP(CO)
GMY(06/03/2020)