

BAIL SLIP

That the Appellant/Accused namely Durai, S/o.Sivamurthy, was released on bail as per order of this Court dated 30.07.2014 in MP.No.1 of 2014 in Crl.A.No.345 of 2014.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23.12.2020

CORAM :

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRL.A.NO.345 OF 2014

Durai

... Appellant/Accused

Vs

State by the Inspector of Police,
All Women Police Station,
Melmaruvathur,
Villupuram District.
(Cr.No.9 of 2008)

... Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374 of Criminal Procedure Code praying to set aside the Judgment dated 16.06.2014 in S.C.No.41 of 2010, on the file of the Mahila Court, Chengalpattu.

For Appellant : Mr.T.R.Ravi.

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor

J U D G M E N T
(through Video Conference)

The present Criminal Appeal has been filed to set aside the Judgment of conviction and sentence passed by the learned Sessions Judge, Mahila Court, Chengalpattu in S.C.No.41 of 2010 dated 16.06.2014.

2.The appellant is the sole accused. He stood charged for the offence under Sections 376, 417 and 506(ii) of Indian Penal Code. By Judgment dated 16.06.2014, the learned Sessions Judge, Mahila Court, Chengalpattu convicted the appellant under Section 376 of Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of seven years and to pay a fine of

Rs.12,000/-, in default to undergo rigorous imprisonment for a period of six months and further, convicted the appellant under Section 417 of Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of one year and further directed to pay a compensation of Rs.10,000/- to the victim. In respect of the offence under Section 506(ii) of Indian Penal Code, the trial Court acquitted the accused.

3.Challenging the said conviction and sentence, the appellant/accused is before this Court by filing the present Criminal Appeal.

4.Today when the appeal is came up for hearing, the learned Counsel for the appellant submitted a joint memorandum of compromise, wherein, both the accused and the defacto complainant made submissions that after the occurrence, both of them got married on 25.06.2008 at Arulmigu Arulazhai Eswarar Temple, Senguntharpettai, Maduranthagam and the same was registered in the Sub-Registrar Office, Maduranthagam on 27.06.2008. He further added that due to the wedlock, the defacto complainant gave birth to a male child on 20.07.2017 and thereby, both of them prayed to record the said joint memorandum of compromise and set aside the conviction and sentence awarded by the trial Court.

5.Further, in order to substantiate their submissions raised in the joint memorandum of compromise, they filed additional typed set of papers along with the certificate issued by the temple in respect of the marriage dated 25.06.2008 and the marriage certificate issued by the Sub-Registrar Office, Maduranthagam dated 27.06.2008 and the birth certificate of their child viz., D.Ashwin dated 20.07.2017.

6.Therefore, the said documents proves the fact that on 25.06.2008, the accused herein married the victim girl and thereafter, she gave birth to male child. In the said circumstances, in order to verify the correctness of the said documents and the submissions made in the memorandum of compromise, this Court directed both the parties to appear before this Court through Video Conference.

7.As directed, both the parties viz., defacto complainant and the accused appeared before this Court through Video Conference and during the time of enquiry, both of them made submission that as of now, they are living a happy marriage life. Further, in this regard, Mrs.Geetha Lakshmi, Inspector of Police, All Women Police Station, Melmaruvathur who registered the case against the accused has appeared before this Court and identified the parties.

8. Therefore, in the said circumstances, if the appellant is again convicted with this appeal, it would cause much inconvenience to the family life of the victim girl. Accordingly, in the light of the guidelines given by the Hon'ble Supreme Court in the case of "Parbathbhai Aahir @ Parbathbhai -vs- State of Gujarath" reported in "2017 9 SCC 641", this Court is inclined to allow the appeal and hence, the joint memorandum of compromise filed before this Court by both the parties is recorded and the same shall form part and parcel of this Judgment.

9. In the result, the appeal is allowed and the conviction and sentence imposed on the appellant/accused by the Trial court are set aside and he is acquitted of all the charges. Fine amount, if any, paid, shall be refunded to the appellant/accused.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Maduranthagam, Kancheepuram District.
2. The Chief Judicial Magistrate,
Chengalpet.
3. The Additional Sessions Judge,
Mahila Court, Chengalpattu.
4. The Superintendent, सत्यमेव जयते
Central Prison, Puzhal, Chennai.
5. All women Police Station,
Melmaruvathur, Villupuram District.
6. The Public Prosecutor,
High Court of Madras,
Chennai.

Cr1.A.No.345 of 2014

MG(CO)
CS/03/02/2021