



BAIL SLIP

Senthil @ Senthil Kumar @ Raja Senthil, male aged about 39 years was released on bail vide court order dated 18.06.2015 made in MP (MD)No.1/15 in Crl A(MD)No.141 of 2015.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.A.(MD)Nos.141 and 257 of 2015

Crl.A.(MD)No.141 of 2015:-

Senthil @ Senthilkumar @ Raja Senthil ... Appellant/Accused No.1

Vs.

State,Rep. by Inspector of Police,
Avaniapuram Police Station,
Madurai.
(Crime No.122/2008)

... Respondent

Prayer: Criminal Appeal is filed under Section 374(2) of Criminal Procedure Code, to set aside the judgment and conviction and sentence dated 10.06.2015 by the learned Sessions Judge, Mahila Court - Mahalir Neethimandram, Madurai in S.C.No.201 of 2010 and acquit the appellant.

For Appellant : Mr.J.Ashok

For Respondent : Mr.A.Robinson
Government Advocate (Crl. Side)

Crl.A.(MD)No.257 of 2015:-

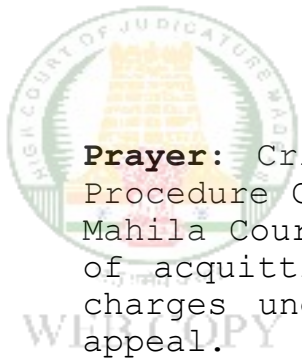
Vasandanathan ... Appellant/PW1

Vs.

State rep. by the
Inspector of Police,
Avaniapuram Police Station,
Madurai.
(Crime No.122/2008)

2.Anandavalli
3.Raja
4.Muthuramalingam

... Respondents 2 to 4/
Accused 2 to 4



Prayer: Criminal Appeal is filed under Section 374(2) of Criminal Procedure Code, to set aside the order passed by the Sessions Court, Mahila Court, Madurai in S.C.No.201 of 2010 on 10.06.2015 in respect of acquitting the respondents 2 to 4/accused Nos.2 to 4 from the charges under Section 498(A) and 306 IPC and allow this criminal appeal.

For Appellant : Mr.G.Marimuthu

For Respondent : Mr.A.Robinson

Government Advocate (Crl. Side) for R1
Mr.P.Balamurugan for R2 to R4

C O M M O N J U D G M E N T

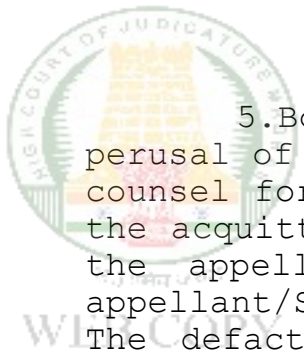
Heard the learned counsel on either side.

The appellant/Senthil @ Senthilkumar @ Raja Senthil was prosecuted along with other family members in S.C.No.201 of 2010 on the file of Mahila Court/Sessions Judge, Madurai for the offence under Section 498(A) and 306 I.P.C.

2.The defacto complainant/P.W.1/Vasandanathan is the Father-In-Law of the appellant herein. The marriage between the appellant and Kavitha was solemnized on 07.06.2006. A male child was born in the year 2007 and Kavitha committed suicide by hanging herself in the matrimonial home on the occasion of first birthday of the child ie., on 23.04.2008. In this regard, Crime No.122 of 2018 was registered on the file of the Inspector of Police, Avaniyapuram Police Station, Madurai. The case was investigated and final report came to be filed.

3.The prosecution examined 16 witnesses including the defacto complainant and his wife. Exs.P1 to P16 and M.O.1 to M.O.7 were marked.

4.The learned Trial Judge after a detailed consideration of the evidence on record came to the conclusion that A2 to A4 are entitled to be acquitted. They were accordingly acquitted. However, the appellant herein was found guilty of both the offences with which he was charged and he was sentenced to three years rigorous imprisonment for the offence under Section 498(A) I.P.C. and ten years rigorous imprisonment for the offence under Section 306 I.P.C. Challenging the same, Crl.A.(MD)No.141 of 2015 was filed by the convicted accused. The defacto complainant filed Crl.A.(MD) No.257 of 2015 challenging the acquittal made in favour of the remaining three accused.



5.Both the appeals were heard together. After a careful perusal of the entire evidence on record, I indicated to the learned counsel for the appellant, that I am not inclined to interfere with the acquittals, I was inclined to confirm the conviction imposed on the appellant. It is also seen that the male born to the appellant/Senthil @ Senthilkumar is with the defacto complainant. The defacto complainant and his wife appeared before this Court through web hearing and informed through their counsel/Mr.Jothi Basu that considering the various aspects, they would not have any objection, if there is modification in the matter of sentence provided, the appellant pays a compensation of Rs.9,00,000/- for the maintenance of the child. The appellant also admits that he would not challenge the finding of guilt and he would be satisfied if indulgence is shown in the matter of sentence. The appellant appears to have been in custody for nearly four months. The appellant gives a further undertaking that he would take demand draft for a sum of Rs.7,00,000/- favouring the defacto complainant / Mr.Vasandanathan and pay the same directly to him within a period of six months from the date of receipt of a copy of this judgment. He would make a further a payment of Rs.2,00,000/- within a period of one year thereafter. In other words, within a period of 18 months, a sum of Rs.9,00,000/- will be paid to the defacto complainant.

6.The defacto complainant had a daughter by name Kavitha who was married to the appellant and a son also. Kavitha committed suicide by hanging. The son also appears to have been died due to illness. This child is the only legal heir for Vasanthanathan-Thenmozhi. The appellant has not paid any amount towards maintenance of the child all these years. For the last twelve years, it is Vasanthanathan-Thenmozhi, who have been taking care of the child. Therefore, the amount to be given by the appellant would only represent the past arrears. Yesterday ie., 02.12.2020, I directed the appellant to go and fall at the feet of Vasanthanathan - Thenmozhi to get their blessings. He had accordingly done so. Vasanthanathan - Thenmozhi have forgiven the appellant by taking note of the fact that during the pendency these criminal appeals, he had married a widow, who was already having a child and that through the second marriage, he is blessed with one more child. Therefore, the defacto complainant does not want to ruin the life of the appellant. In fact the defacto complainant/Vasanthanathan wanted me to direct the accused to put the money in a fixed deposit. But I am directing the appellant to pay the amount directly to the defacto complainant. Therefore, even while confirming the conviction imposed on the appellant, the sentence imposed on him is modified as follows:-

(i) The appellant shall pay a sum of Rs.7,00,000/- to the defacto complainant / Vasandanathan, within a period six months from the date of receipt of a copy of this order and a further sum of Rs.2,00,000/- within a period of one year

<https://hcservices.hcscs.gov.in/hcservices/> If within the time line stipulated above, the



amount mentioned above is omitted to be paid, the petitioner will have to undergo rigorous imprisonment for the period of three years for each of the charge, which of course will run concurrently.

7. These criminal appeals are partly allowed accordingly.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID -19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Sessions Judge,
Mahila Court,
Madurai.

2. The Judicial Magistrate No.VI, Madurai.

3. The Inspector of Police,
Avaniyapuram Police Station,
Madurai District.

4. The Superintendent Central Prison, Madurai.

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

6. The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai (2 copies)

+1 CC to Mr.J.ASHOK, Advocate (SR-23982[F] dated 04/12/2020)

+1cc to M/s. G.M.Law Office Sr.No.23964

Crl.A. (MD)Nos.141 and 257 of 2015

03.12.2020

VB (21.12.2020) 4P 10C