

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2015

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

Crl.A.No.114 of 2015
and M.P.No.1 of 2015

Seeranjeevi

... Appellant/accused

.Vs.

The State
Rep. by Deputy Superintendent of Police
Arakkonam Sub-Division
Nemili Police Station
Vellore District.
Crime No.106 of 2012.

... Respondent/Complainant

Prayer:- Appeal filed under Section 374(2) of Cr.P.C. against the Judgment of conviction and sentence dated 06.02.2015 in S.C.No.17 of 2013 on the file of the Principal Sessions Court, Vellore, Vellore District.

For Appellant : Mr.E.Kannadasan

For Respondent : Mr.Mohamed Riyaz
Government Advocate (Crl.side)

JUDGMENT

This Criminal appeal arises out of the Judgment of conviction and sentence dated 06.02.2015 in S.C.No.17 of 2013 on the file of the Principal Sessions Court, Vellore, Vellore District, whereby the appellant/accused was convicted and sentenced as follows:

offence under Section	Sentence
294(b) IPC	To pay a fine of Rs.500/- in default in payment to undergo one month simple imprisonment.

offence under Section	Sentence
323 IPC	To undergo one year simple imprisonment and to pay a fine of Rs.1,000/- in default in payment to undergo three months simple imprisonment.

2.Challenging the judgment of conviction and sentence passed by the trial Court, the appellant/accused has come forward with an appeal along with the petition for suspension of sentence imposed on the appellant/accused. At the time of arguments, since the learned counsel for the appellant/accused advanced his arguments only in respect of quantum of sentence, the criminal appeal itself has taken for final disposal.

3.Learned counsel for the appellant/accused submits that initially charges were framed against the appellant/accused for offences under Sections 294(b) and 302 IPC and Section 3(1)(x) and 3(2)(V) of SC/ST (POA) Act, 1989. But the appellant/accused was convicted for the offences under Sections 294(b) and 323 IPC and acquitted under Section 3(1)(x) and 3(2)(V) of SC/ST (POA) Act, 1989. It is further submitted that the trial Court considering the medical evidence and Ex.P6/post-mortem certificate of the deceased Sappani @ Purushothaman, convicted the appellant/accused as stated above. But the deceased has not sustained any injuries and he died due to heart attack and due to wordy quarrel only, the occurrence was said to have taken place. Hence, the trial Court has acquitted the appellant/accused for offence under Section 302 IPC, however, the appellant was convicted for offence under Section 323 IPC. It is further submitted that the appellant has been in prison for more than two months and hence, he has prayed for reduction of sentence.

4.Learned Government Advocate (Crl.side) would submit that since the learned counsel for the appellant/accused has argued only in respect of reduction of sentence imposed on the appellant/accused, he leaves the matter for Court's discretion.

5.Heard the submissions made on both sides and perused the materials available on record.

6.It is seen that even though charge was framed against the appellant/accused for offence under Section 302 IPC and Section 3(1)(x) and 3(2)(V) of SC/ST (POA) Act, 1989, he was acquitted for the said offences.

7.As per the evidence of P.W.10/Dr.Shankar and Ex.P6/post-mortem certificate, the deceased has not sustained any external injuries and his death is only due to heart attack.

8.Considering the aforestated circumstances of the case, the trial Court convicted the appellant/accused for offence under Section 323 IPC and sentenced to undergo one year simple imprisonment. Due to sudden provocation, the occurrence was said to have taken place. In such circumstances, I am of the view, the sentence imposed by the trial Court is on higher side. Therefore, I am inclined to modify the sentence. Accordingly, the sentence imposed by the trial Court is reduced to the period already undergone by the appellant/accused. The conviction passed by the trial Court for offences under Sections 294 (b) and 323 IPC are confirmed and the fine amount imposed by the trial Court is also hereby confirmed. According to the learned counsel for the appellant, the appellant/accused has already paid the fine amount.

9.In fine,

- The conviction and sentence passed by the trial Court for offence under Section 294(b) IPC are hereby confirmed.
- The conviction under Section 323 IPC is hereby confirmed.
- The sentence in respect of offence under Section 323 IPC is reduced from one year to the period already undergone by the appellant/accused.
- The fine amount imposed by the trial Court is confirmed.
- Accordingly, the Criminal Appeal is ordered.
- Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

Kj

To

1. The Principal Sessions Judge,
Vellore,
Vellore District.

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2. Deputy Superintendent of Police
Arakkonam Sub-Division
Nemili Police Station
Vellore District.

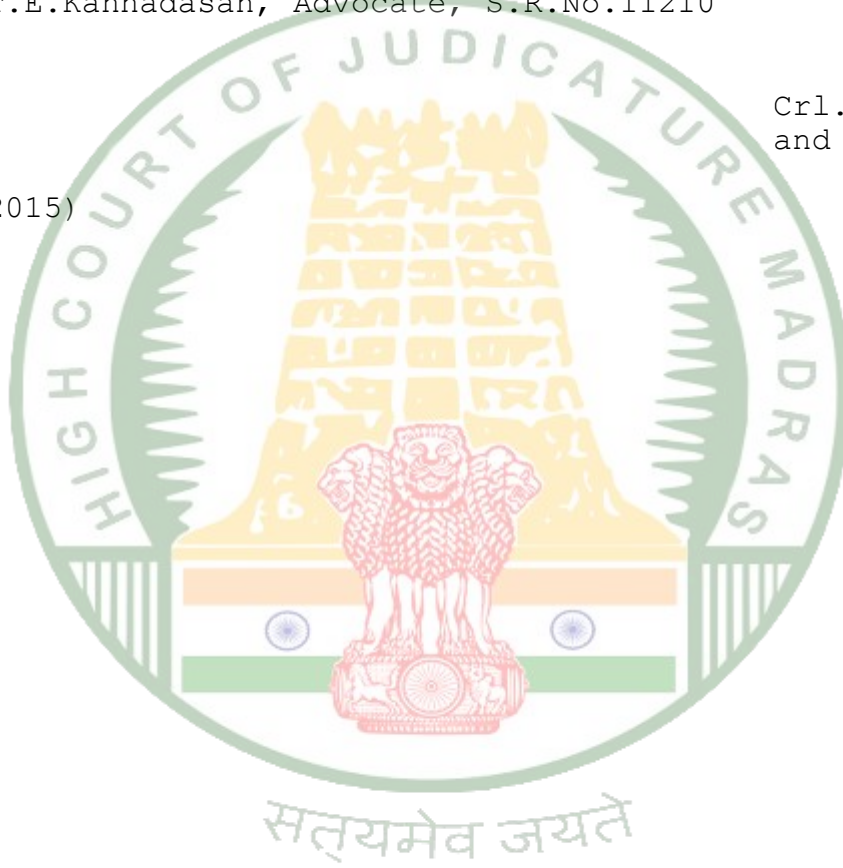
3. The Public Prosecutor, High Court, Chennai.

4. The Record Keeper, Criminal Section,
High Court, Chennai.

+1cc to Mr.E.Kannadasan, Advocate, S.R.No.11210

KM(CO)
CA(12/03/2015)

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