

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Crl.A.No.248 of 2015

Annadurai@Usaivayan

.. Appellant/Accused No.3

Vs.

State rep. by
The Inspector of Police,
Namakkal Police Station,
Namakkal District.
(Crime No.256 of 2003)

.. Respondent/Complainant

Criminal Appeal filed under Section 374 Cr.P.C. against the judgment dated 11.08.2006 in S.C.No.185 of 2005 on the file of the Additional District and Sessions Judge, Fast Track Court, Namakkal.

For appellant : Mr.T.Muruganantham

For respondent : Mr.P.Govindarajan, Addl.P.P.

JUDGMENT

This appeal is filed by the appellant/A3 challenging the judgment dated 11.08.2006 in S.C.No.185 of 2005 on the file of the Additional District and Sessions Court, Fast Track Court, Namakkal, whereby the appellant/A3 was convicted and sentenced as follows:

(i) Section 392 IPC -- seven years rigorous imprisonment and fine of Rs.5,000/-, in default, two months simple imprisonment.

(ii) Section 394 IPC -- ten years rigorous imprisonment and fine of Rs.5,000/-, in default, two months simple imprisonment.

(iii) Section 450 IPC -- one year rigorous imprisonment and fine of RS.500/-, in default, 15 days simple imprisonment.

The trial Court ordered the sentences imposed on the appellant/A3 to run concurrently.

2. It is the case of the prosecution that P.W.1, along with his wife and children, while sleeping in their house and while P.W.1's brother Jayaraj (P.W.4), his mother and father were sleeping in the verandah on 02/03.03.2003 at about 2.30 a.m., A1 to A3 trespassed into the house of P.W.1. A1 snatched the golden chain weighing 5-3/4 sovereigns from P.W.2, the wife of P.W.1. P.W.1 made an attempt to catch hold of A1. A1 hit P.W.1 with iron rod. A2 and A3 had stolen golden rings weighing 1 sovereign and 1/2 sovereign and Rs.17,000/- cash. A2 and A3 had also beaten P.W.1 by using iron rod all over the body. After hearing the alarm raised by P.W.1, his brother P.W.4 Jayaraj made an attempt to catch hold of the accused persons, but all of them ran away.

3. Hence, a case was registered on the basis of the complaint given by P.W.1 and after investigation, charge sheet was filed against the accused persons.

4. During the course of trial, the prosecution has examined nine witnesses, marked eleven documents and produced three material objects.

5. When the appellant/A3 was questioned under Section 313 Cr.P.C., he denied his complicity in the crime. He neither examined any witness nor marked any document.

6. The trial Court, after hearing both sides, convicted and sentenced the appellant/A3 as stated supra. Challenging the same, A3 has filed this appeal.

7. Learned counsel for the appellant/A3 submitted that A3 is in jail from 14.06.2003. He further submitted that already appeal was filed by A1 and A2 in Crl.A.No.882 of 2006 before this Court, in which, by judgment dated 18.09.2013, this Court partly allowed the appeal in respect of A1 and in respect of A2, the appeal was allowed, acquitting him of all the charges framed against him. By the said judgment, this Court, while partly allowing the appeal in respect of A1, acquitted him of the charge levelled against him for the offence under Section 392 IPC and A1 was convicted for the offence under Section 450 IPC and sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.500/-, in default, to undergo 15 days simple imprisonment and for the offence under Section 392 read with 397 IPC, this Court reduced the sentence imposed on A1 from ten years to seven years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo two months simple imprisonment.

8. Therefore, learned counsel for the appellant/A3 submitted that A3 also stands on the same footing to that of A1, and hence, he prayed that this Court may follow the said judgment of this Court passed in Crl.A.No.882 of 2006 in respect of A1.

9. Heard the learned Additional Public Prosecutor appearing for the respondent-Police.

10. Considering the above submissions made by the learned counsel appearing for the appellant/A3 and following the said judgment of this Court, this Court acquits the appellant/A3 of the charge levelled against him for the offence under Section 392 IPC. The appellant/A3 is convicted for the offence under Section 450 IPC and sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.500/-, in default, to undergo 15 days simple imprisonment. In respect of the offence under Section 394 IPC, this Court reduces the sentence imposed on the appellant/A3 from ten years to seven years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo two months simple imprisonment.

11. With the above modification, the appeal is partly allowed

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Copy to

1.The Additional District and Sessions Judge,
Fast Track Court, Namakkal.

2.-Do- Through The Principal District Judge,
Namakkal.

3.The Judicial Magistrate No.I,
Namakkal.

4.The Superintendent,
Central Prison,
Coimbatore.

5.The Inspector of Police,
Namakkal Police Station,
Namakkal District.
(Crime No.256 of 2003)

6.The Public Prosecutor,
High Court, Madras.

7.The District Collector,
Namakkal District.

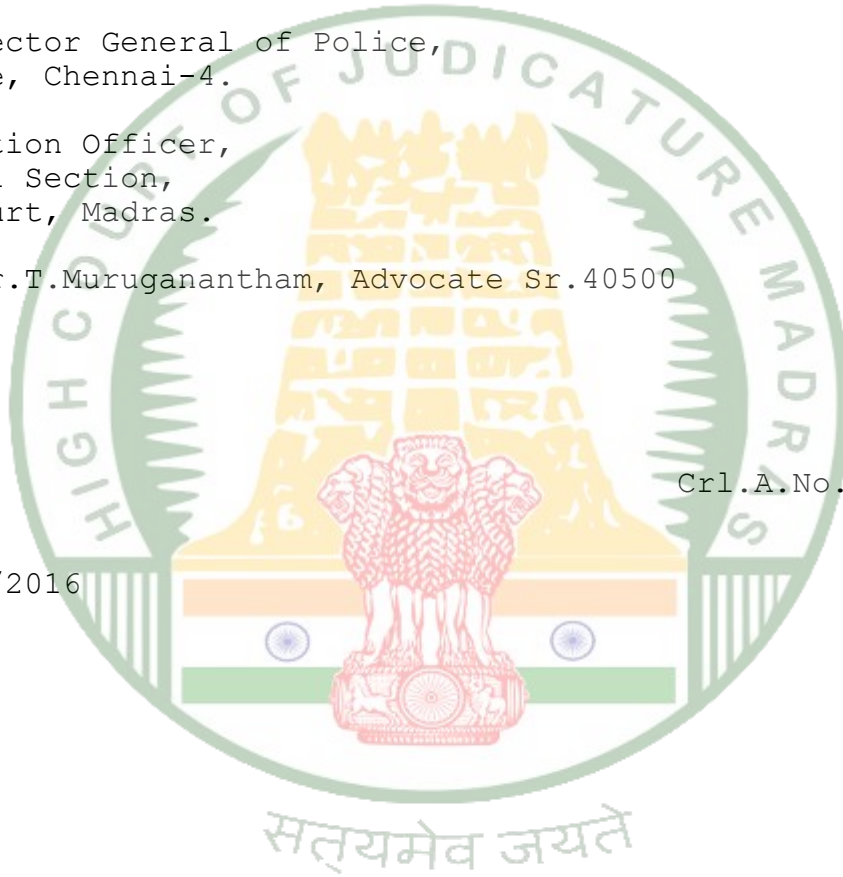
8.The Director General of Police,
Mylapore, Chennai-4.

9.The Section Officer,
Criminal Section,
High Court, Madras.

+lcc to Mr.T.Muruganantham, Advocate Sr.40500

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