

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Crl.A.No.249 of 2015

Annadurai @ Usaivayan

.. Appellant/Accused No.3

Vs.

State rep. by
The Inspector of Police,
Namakkal Police Station,
Namakkal District.
(Crime No.1604 of 2002)

.. Respondent/Complainant

Criminal Appeal filed under Section 374 Cr.P.C. against the judgment dated 11.08.2006 in S.C.No.186 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.186 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 read with 397 IPC -- seven years rigorous imprisonment and fine of Rs.8,000/-, in default, one month simple imprisonment.

(ii) Section 392 IPC -- seven years rigorous imprisonment and fine of Rs.5,000/-, in default, one month 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 on 03.12.2002 at about 10.30 p.m., while P.W.1 and his wife-P.W.2 were sleeping inside the house, three accused persons at about 12 mid-night, trespassed into the house of P.W.1 and assaulted P.W.1 on his left foot with wooden log. A1 snatched the "thali chain" of P.W.2 weighing about 7 sovereigns. In the incident, P.W.2 sustained head injury and also injury on her ear. All the three accused persons left the place with the said gold "thali" chain worth about Rs.24,000/-.

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 fourteen documents and produced one material object.

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 appearing for the appellant/A3 submitted that the appellant/A3 is standing on the same footing as that of A1 and A2 and by judgment dated 29.02.2012 in CrI.A.No.883 of 2006 filed by A1 and A2, this Court allowed the appeal and acquitted them of the charges framed against them. The appeal filed by A4 in CrI.A.No.764 of 2006 was also allowed along with CrI.A.No.883 of 2006. Learned counsel for the appellant/A3 further submitted that the appellant/A3 is in prison from 14.06.2003. Hence, he prayed that the appellant/A3 also may be acquitted of the charges levelled against him.

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

9. On a perusal of the said judgment of this Court in CrI.A.Nos.883 and 764 of 2006, it is seen that the said judgment is squarely applicable to the case of the appellant/A3 also.

10. Accordingly, this appeal is also allowed. The impugned judgment of conviction and sentence passed by the trial Court are set aside. The appellant/A3 is acquitted of all the charges framed against him. The bail bond, if any executed by A3 shall stand cancelled. The appellant/A3 shall be released forthwith, unless he is required in connection with any other case. The fine amounts, if paid by him, shall be refunded to him.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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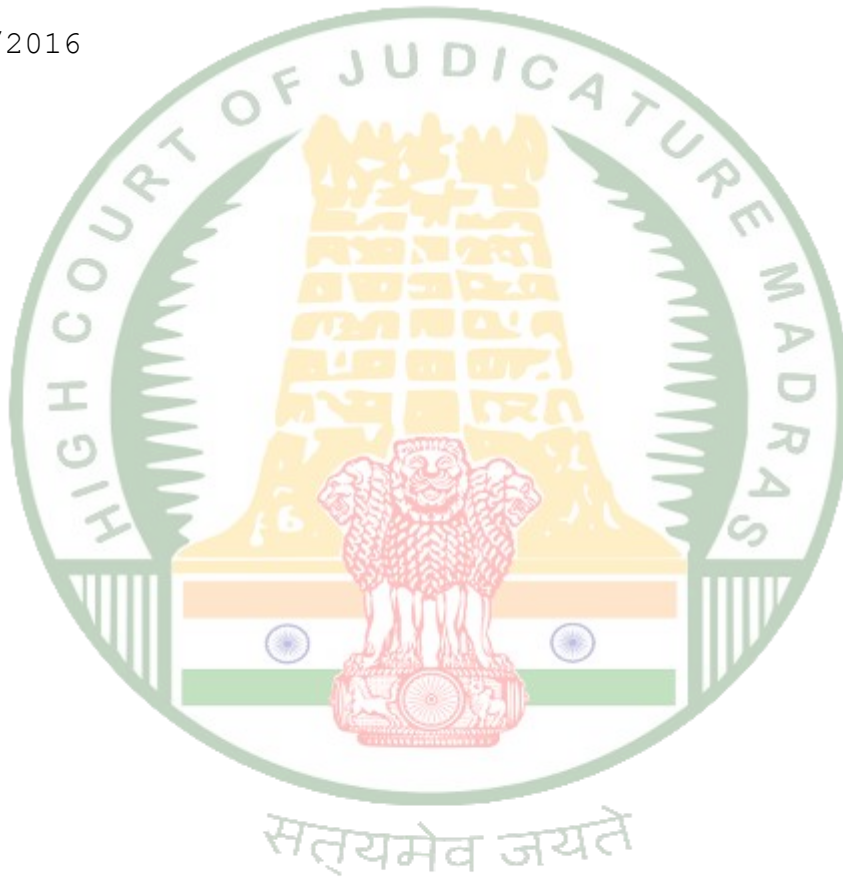
- 1.The Additional District and Sessions Judge,
Fast Track Court, Namakkal.
- 2.-Do- Through the Principal District Judge,
Namakkal.
- 3.The Judicial Magistrate No.I,
Namakkal.
- 4.The Superintendent,
Central Prison,
Coimbatore.
- 5.The Inspector of Police,
Namakkal Police Station,
Namakkal District.
(Crime No.1604 of 2002)
- 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.40499

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