

BAIL SLIP

That the Appellant herein/Sole Accused Viz., Krishnan, aged 40 years, S/o.Chennan was directed to be released on bail as per the Order of this Court dated 10.12.2009, and made in M.P.No.1 of 2009 in Crl.A.No.778 of 2009 etc., as stated within.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2016
(Judgment reserved on 19.08.2016)

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Crl.A.No.778 of 2009

Krishnan ... Appellant/Sole Accused

Vs.

State rep. by the Inspector of Police,
Morappur Police Station.
(Crime No.292 of 2006)

... Respondent/Complainant

Criminal Appeal filed under Section 374(2)Cr.P.C., against the judgment dated 14.10.2009 passed in S.C.No.21 of 2009 on the file of the Additional Sessions and Fast Track Court, Dharmapuri.

For appellant : Mr.V.Rajamohan

For respondent : Mr.P.Govindarajan,
Additional Public Prosecutor

JUDGMENT

This Criminal Appeal is filed against the judgment dated 14.10.2009 passed in S.C.No.21 of 2009 on the file of the Additional Sessions and Fast Track Court, Dharmapuri, in and by which, the appellant/accused was convicted for the offence under Section 307 IPC and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.2,000/-, in default, to undergo simple imprisonment for six months.

2. The gist of the prosecution case leading to conviction of the appellant/accused is that P.W.1/de-facto complainant was residing in Thamaveripattil and was a Farmer by profession. The appellant/accused is the son of junior maternal aunt of P.W.1 and the accused was residing in his farm land. Just one month prior to the date of occurrence, i.e. on 6.11.2006, the appellant killed a wild boar, and some way or the other, the same came to be known to the forest officials. Hence, they have imposed fine on the appellant/accused. The appellant developed doubt that P.W.1/de-facto complainant alone would have informed about the killing of the wild boar to the forest officials and hence, he threatened P.W.1 that he won't leave him without killing. While so, on 06.11.2006, when the victim was going in a bi-cycle to his house, on seeing one Gullu, he stopped the cycle and was conversing with him, and at that time, the appellant came with knife M.O.1 and made an attempt to stab the victim/P.W.1/de-facto complainant. But P.W.1/victim moved away in order to avoid the stab injury. But the knife hit on the left forehead and cheek of the victim. Again, the appellant stabbed the victim on the left portion of his stomach, which resulted in the intestine coming out of the stomach. When P.W.1/victim raised alarm, the said Gullu tried to catch hold of the appellant/accused, but he escaped from the place of occurrence. Immediately, P.W.1/victim was admitted in Salem Government Hospital as an in-patient. While he was in the hospital, P.W.11 Sub-Inspector of Police came to the hospital and recorded Ex.P-1 from P.W.1; thereafter, P.W.11 registered a case in Crime No.292 of 2006 for the offence under Section 307 IPC on 06.11.2007 and sent the FIR to higher officials and also to the jurisdictional Magistrate; thereupon, P.W.13 the then Inspector of Police, took up the case for investigation. He went to the scene of occurrence on 06.11.2006, prepared Ex.P-2 / observation mahazar and drew Ex.P-11 rough sketch. Thereafter, he recovered the material objects under mahazar Ex.P-3 and recorded the statement of the witnesses. He arrested the appellant/accused on 07.11.2006 at about 11 a.m. Based on the confession statement of the accused, M.O.1 knife was recovered. The appellant/accused was remanded to judicial custody. P.W.13 also recorded the statement of the other witnesses. After completion of all formalities and investigation, P.W.13 filed charge-sheet before the trial Court. The case was taken on file in S.C.No.21 of 2009 by the trial Court. During the course of trial, on the side of prosecution, P.Ws.1 to 13 were examined, Exs.P-1 to P-11 were marked and M.Os.1 to 3 were produced. When the appellant/accused was questioned under Section 313 Cr.P.C., he denied his complicity in the crime. He neither examined any witness nor marked any document. Upon hearing the submissions of either side and considering the oral and documentary evidence available on record, the trial Court convicted and sentenced the appellant/accused as stated above. Challenging the said judgment

of conviction and sentence, the appellant/accused has filed this appeal.

3. The only submission made by the learned counsel for the appellant/accused is that the occurrence took place in the year 2006 and almost ten years had lapsed, and hence, he prayed for leniency in the period of sentence of imprisonment.

4. Heard the learned Additional Public Prosecutor appearing for the respondent, who submitted that the prosecution has proved its case beyond reasonable doubt by cogent, clinching and convincing evidence and hence, no interference is called for in the impugned judgment of conviction and sentence and hence, he prayed for dismissal of this appeal.

5. While keeping in mind the above submissions made on either side, I have anxiously considered the same and perused the materials available on record.

6. Considering the manner in which the occurrence had taken place; taking into account the fact that almost ten years have lapsed from the date of occurrence and also taking note of the fact that the occurrence lead to the intestine coming out of the stomach of the victim/P.W.1/de-facto complainant, at this distant point of time, this Court is of the view that some leniency may be shown on the appellant/accused with regard to the period of sentence of imprisonment.

7. Accordingly, the appeal is partly allowed, confirming the conviction imposed on the appellant/accused by the trial Court, but reducing the period of sentence from three years to one year rigorous imprisonment. Since the appellant/accused is on bail, the trial Court is directed to take steps to secure his custody, to undergo the remaining period of sentence, if any.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

cs

To

1. The Additional District & Sessions Judge
(Fast Track Court),
Dharmapuri.
2. Do Through The Principal Sessions Judge,
Dharmapuri.
3. The Judicial Magistrate,
Hosur.
4. Do Through The Chief Judicial Magistrate,
Dharmapuri.
5. The Inspector of Police,
Morappur Police Station,
Dharmapuri District.
(Crime No.292 of 2006)
6. The Public Prosecutor,
High Court, Madras.
7. The Record Keeper,
Criminal Section,
High Court, Madras.
8. The Superintendent of Police
Dharmapuri District

+1cc to Mr.N.Mohideen Basha, Advocate, S.R.No.49015

Crl.A.No.778 of 2009

UG(CO)
CA(28/09/2016)

सत्यमेव जयते

WEB COPY