

BAIL SLIP

That the Petitioner/Appellant namely Guruvammal was directed to be released on bail dated 17.08.2009 made in CrI.MP.No.1/2009 in CrI.A.No.442/2009.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2017

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THE HONOURABLE MR.JUSTICE C.T.SELVAM

Criminal Appeal No.442 of 2009

Guruvammal ... Appellant/Accused

Vs.

The State
Through the Inspector of Police,
Tiruppur North Police Station
Tiruppur. ... Respondent/Complainant

Criminal Appeal preferred under Section 374(2) of Cr.P.C., against the judgment dated 16.07.2009 in S.C.No.64 of 2009 on the file of the Additional District and Sessions Judge/Fast Track Court No.IV, Coimbatore at Tiruppur.

For Appellant : Mr.C.K.M.Appaji

For Respondent : Mr.V.Arul
Additional Public Prosecutor

J U D G M E N T

This appeal arises against the judgment of learned Additional District and Sessions Judge, Fast Track Court No.IV, Coimbatore, Tiruppur, passed in S.C.No.64 of 2009 on 16.07.2009.

2. The case of the prosecution is that on 06.03.2005, at about 7.30.p.m., when PW-1 was returning home, appellant/accused waylaid PW-1 and attacked him. Upon hearing a noise, PW-2 mother of PW-1 and PW-3 wife of PW-1 came to the place of

occurrence. The accused, along with her son-in-law and his friend attacked PWs-2 and 3 and poured petrol over them and set them on fire and caused injuries. Upon receiving information, PW-8 Sub-Inspector of Police, Tiruppur (North) went to the Government Hospital, examined PW-1 and recorded his statement. Thereafter, he registered a case in Crime No.826 of 2005 against the appellant/accused for the offences under Sections 294(b), 323, 307 IPC. The FIR is Ex.P9. Thereafter, PW-9 Inspector of Police took up investigation on 07.03.2005, visited the place of occurrence, prepared Ex.P2 Observation Mahazar and Ex.P10 Rough Sketch in the presence of PW-6 and others. He examined PWs-1 to 3, 6 and others and recorded their statements. On 07.03.2005 at about 4.00.p.m., he arrested the accused near Mudhalipalayam junction and recorded the confession statement of the accused in the presence of witnesses. He seized MOs-1 to 8 under Ex.P3 to 5 seizure mahazar. On 08.03.2005, he examined witnesses and recorded their statements. He examined PW-7 Doctor and obtained wound certificate. Upon completion of investigation, he filed a charge sheet on 25.03.2005, before the learned Additional District Sessions Judge, Fast Track Court-IV, Tiruppur informing the commission of offences under Sections 323 and 307 r/w 34 IPC. The case was tried in S.C.No.64 of 2009 before the learned Additional District and Sessions Judge, F.T.C.No.4, Tiruppur.

3. As appellant/A1's son-in-law and another were unavailable, the case against them has been spilt up and this appellant/A1 alone has been tried in the case. Before trial Court, prosecution examined 9 witnesses and marked 11 exhibits and 8 material objects. None were examined on behalf of defence nor were any exhibits marked. When questioned u/s.313 Cr.P.C., accused denied charges. On appreciation of materials before it, trial Court, under judgment dated 16.07.2009, convicted appellant/A1 for offences u/s.323 and 307 r/w 34 IPC and sentenced her to 5 years R.I. and fine of Rs.1,000/- i/d 3 months R.I.

4. Heard learned counsel for appellant and learned Additional Public Prosecutor for respondent. Perused the records.

5. As per Ex.P1, complaint, PW-1, engaged in vegetable vending using a handcart, was abused by appellant/A1 and her son-in-law 15 days prior to the occurrence and on his way home after completing his trade for the day. On the date of occurrence i.e., 06.03.2005 at about 08.00 p.m. and on his way home, he found appellant/accused, her son-in-law, one other accused and others in conversation on the pathway. PW-1 questioned them on how many times he was to tell them not to obstruct the pathway. Appellant/A1 loudly shouted of PW-1 being of trouble all the time and upon hearing the noise, PW-2, his mother and PW-3, wife, came running. Appellant's son-in-law

picked up a wooden log lying at the spot and dealt a blow to the head of his mother, PW-2 and assaulted PW-3. PW-2 deposed in keeping with the complaint regards attack on her but she speaks to injury to PW-3, her daughter-in-law, having been caused by this appellant/A1 as also her son-in-law. The evidence of PW-3 was that appellant/A1's son-in-law beat PW-2 with a wooden log. Admittedly it was PW-1, who called the accused a perpetual nuisance, in that they blocked the pathway and such accusation was met with an angry outburst by appellant/A1. It is thereafter that PWs.2 and 3 came to the scene. In the said admitted circumstance, it is apparent that the occurrence proper is a spur of the moment one. When so, it is difficult to attribute common intention to all the accused. As appellant/A1's son-in-law and another were unavailable, the case against them has been spilt up and this appellant/A1 alone has been tried in the case. This appellant/A1 can be held liable only for her individual acts. The deposition of witnesses there regards is discrepant. Therefore, appellant/A1 would be entitled to acquittal.

The Criminal Appeal shall stand allowed. The conviction and sentence passed by learned Additional District and Sessions Judge / Fast Track Court No.IV, Coimbatore at Tiruppur in S.C.No.64 of 2009 on 16.07.2009, is set aside and appellant is acquitted of all charges. Fine amount, if any, paid shall be refunded. Bail bond(s), if any, executed shall stand cancelled.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kmi

To

- 1.The Additional District and Sessions Judge,
Fast Track Court No.IV,
Coimbatore at Tiruppur.
- 2.The Inspector of Police,
Tiruppur North Police Station
Tiruppur.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai-104.

4.The Judicial Magistrate No.I
thiruppur

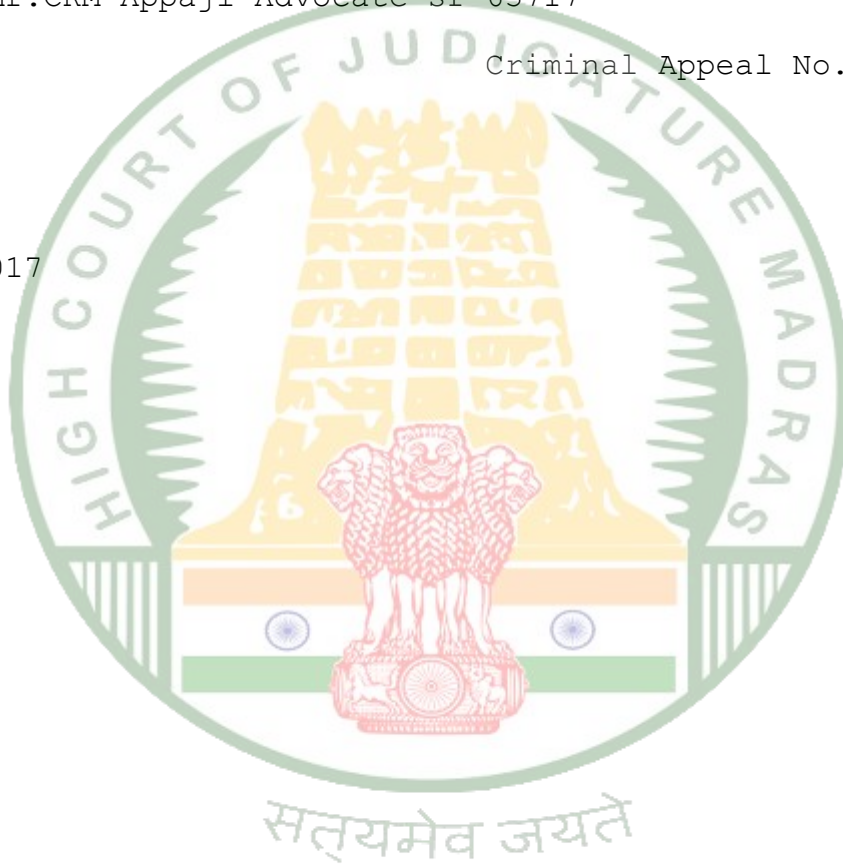
5.Do Thro The Chief Judicial Magistrate
Coimbatore

6.The Superintendent
Central Prison
Coimbatore

+1 cc to Mr.CKM Appaji Advocate sr 63717

Criminal Appeal No.442 of 2009

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