

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.08.2017

DELIVERED ON : 03.01.2019

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Criminal Appeal No.442 of 2008

Vijarajan
S/o.Selvaraj

.. Appellant

Vs.

State represented by
Inspector of Police,
Sathiyathoppu Police Station,
Cuddalore District.
Crime No.60 of 2007

.. Respondent

Criminal Appeal preferred under Section 374(2) of Cr.P.C against the judgment of learned Sessions Judge, Mahila Court, Cuddalore, passed in S.C.No.50 of 2008 on 10.06.2008.

For Appellant : Mr.T.Sundaresan

For Respondent : Mr.V.Arul,
Additional Public Prosecutor

J U D G M E N T

This appeal arises against the judgment of learned Sessions Judge, Mahila Court, Cuddalore, passed in S.C.No.50 of 2008 on 10.06.2008.

2. Prosecution case is that PW-1 is running a chit business and accused borrowed sums of Rs.50,000/- and Rs.60,000/- on two occasions. Having borrowed sums, accused repaid only a sum of Rs.20,000/- and defaulted in balance payment. When PW-1 demanded return of money, accused abused her using filthy language and on 22.04.2007 at about 10.00 p.m., accused took a grinding stone and assaulted PW-1, owing to which PW-1 sustained grievous injuries. On 25.04.2007, PW-6, Head Constable, Seithyathoppu Police Station, on information received from Government Hospital, Chidambaram, went to hospital, examined PW-1, who was taking treatment as an in-patient, recorded her statement and

registered a case in Crime No.60 of 2007 on the file of respondent for offences u/s.294, 324, 326 and 307 IPC and submitted the same before PW-7, Sub-Inspector of Police, Seithyathoppu Police Station, for further investigation. Printed First Information Report is Ex.P4. On 25.04.2007, PW-7 took up investigation, visited the place of occurrence, prepared Ex.P5 - Observation Mahazar and Ex.P6 - Rough Sketch and seized MO-1, grinding stone under Ex.P7 - seizure mahazar. PW-7 examined PWs.1 to 5 and others and recorded their statements. PW-7 forwarded MO-1, Grinding Stone, to Court under Form-95. PW-7 handed over investigation to Chellamuthu, Inspector of Police for further investigation, who examined PW-8, Doctor, recorded her statement and completed investigation. As the said Inspector was not well, PW-10, who was in-charge of Seithyathoppu Police Station, had gone through the case papers and filed final report informing commission of offences u/s.294, 324, 327 and 307 IPC before learned Judicial Magistrate I, Chidambaram. Upon committal, the case was taken on file in S.C.No.50 of 2008 on the file of learned Sessions Judge, Mahila Court, Cuddalore.

3. Before trial Court, prosecution examined 10 witnesses and marked 9 exhibits and 3 material objects. None were examined on the side 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 10.06.2008, while acquitting accused of offences u/s.294 and 307 IPC, convicted him for offence u/s.326 IPC and sentenced to 2 years R.I. and fine of Rs.5,000/- i/d 3 months R.I. There against, present appeal has been filed.

4. Heard learned counsel for appellant and learned Additional Public Prosecutor for State.

5. Though this Court is satisfied that a well-reasoned approached has been adopted by trial Court in arriving at a finding of conviction, taking into consideration the position that the occurrence was of the year 2007, the nature of injury suffered by PW-1 was fracture of the index finger and accused have undergone incarceration for a period of 38 days, this Court considers it appropriate to alter the sentence to the period already undergone and enhance the fine to one of Rs.40,000/-.

6. Accordingly, the sentence of 2 years R.I. is modified to one of sentence already undergone by appellant/accused. Fine amount is enhanced to Rs.40,000/- and the same is to be paid to the credit of S.C.No.50 of 2008 on the file of learned Sessions Judge, Mahila Court, Cuddalore.

7. In keeping with the present order, appellant/accused has deposited a sum of Rs.40,000/- to the credit of S.C.No.50 of

2008 on the file of learned Sessions Judge, Mahila Court, Cuddalore and filed a memo dated 22.11.2018 enclosing the original receipt in proof of payment. The sum of Rs.40,000/- shall be paid over to PW-1 on her moving appropriate petition therefor.

The Criminal Appeal is disposed of with the above modification.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Sessions Judge,
Mahila Court, Cuddalore.
2. The Judicial Magistrate Court No.1,
Chidambaram.
3. The Chief Judicial Magistrate,
Chidambaram.
4. The Inspector of Police,
Sathiyathoppu Police Station,
Cuddalore District.
5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.T.Sundaresan, Advocate, S.R.No.1337

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SSI(CO)
CS/11/02/2019