



Bail Slip

The Appellants herein/accused No.1 to 4 viz Mani Gounder, S/o.Kuppusamy Gounder, Siva, S/o.Mani Gounder, Ramamurthy, S/o.Kuppusamy Gounder, Pillaiyar, S/o.Subramanian Gounder were directed to be released on bail as per the order of this court, dated 05.03.2014 made in MP.NO.1/2014 in CrI.A.NO.83/2014.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

CrI.A.No.83 of 2014

1. Mani Gounder

2. Siva

3. Ramamurthy

4. Pillaiyar

.... Appellants/Accused 1 to 4

Vs.

State by

The Inspector of Police
Arani Town Police Station,
Kalambur Police Station,
Thiruvannamalai District.
(Crime No.217/2006)

....Respondent/Complainant

Prayer : Criminal Appeal filed under Section 374 of the Code of Criminal Procedure, to set aside the conviction and sentence imposed by the Sessions Judge, Thiruvannamalai, Thiruvannamalai District in S.C.No.93 of 2008, dated 31.01.2014.

For Appellants : Mr.V.Karthick, Senior counsel
for M/s.T.S.Gopalan & Co.,

For Respondent : Mrs.M.Prabhavathi Ganesh Ram
Additional Public Prosecutor



4. The Investigating Officer examined the witnesses and recorded their statements. After completing investigation, he laid charge sheet.

6. The learned Senior counsel appearing for the appellants / accused raised the following points :

(ii) The earliest complaint given to the police has been suppressed and is not before the Court.

(iv) The occurrence could not have taken place in the land of the accused.

The learned Senior counsel appearing for the appellants argued that in the light of the above points, benefit of doubt is to be given to the accused and they are entitled to be acquitted.

8. The case of the prosecution is that on 22.11.2006 at about 5.45 a.m, when P.W.1 along with Ramesh went to the land taking cows for ploughing, the electric fence in the land of the first accused touched the legs of Ramesh and he died on the spot due to electrocution. P.W.1 in his cross-examination admits that Ramesh took his food at 7 p.m on 21.11.2006 and he went to bed at 8 p.m. The Doctor P.W.8 conducted postmortem at 3.45 p.m and completed the same at 5 p.m on 22.11.2006. She found the undigested food in the stomach of the deceased body. She has



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deposed during cross-examination that death would have caused within two hours after taking food by the deceased. After taking food at 7 p.m, Ramesh died at 5.45 a.m, i.e., after about 10 hours as per the case of the prosecution. Therefore the time of death creates doubt as to the projection of the case by the prosecution.

9. P.W.1 says that immediately after the occurrence he went to the police station and lodged the complaint at 7.30 a.m. On the basis of the complaint, FIR was also registered at 7.30 a.m. He says in his cross-examination that he gave the statement before the police in question and answer form and the same was taken as complaint by the police. P.W.3 who gave Ramesh in adoption to P.W.1 says that on hearing the death, she came to the spot at 8 a.m and after an hour from then, P.W.1 went to the police station with a written complaint. The complaint Ex.P.1 is the written statement and it is not in the form of question and answer. Therefore the contention of the learned Senior counsel appearing for the appellants that the earlier complaint given to the police has been suppressed cannot be brushed aside.

10. The Village Administrative Officer, who has been examined as P.W.4 says in his evidence that electric fencing will be made only when paddy crops is in the harvesting stage and no one will lay electric fence when it is in saplings stage. Though the Investigating Officer and P.W.6, Assistant Engineer of the Electricity Board say that there was wire hanging in the fuse career and the police took photographs of 320 wire, the photograph has not been marked as document and 320 wire has not been recovered and marked as M.O.

11. Above all, P.W.1 himself admits that during the life time of his father-in-law, his father-in-law drew water from the well of the first accused and made cultivation in his land. After his demise, he did not ask for water from the well of P.W.1 and they are not in talking terms. Therefore it is clear from the evidence of P.W.1 that there is misunderstanding or enmity between P.W.1 and A1.

12. Absolutely there is no evidence either by the wireman or the Engineer about the offence under Sections 138 and 139 of the Indian Electricity Act. Though P.W.1 says that all the accused immediately after the occurrence took the deceased and placed at a distance and then after people came, they brought back and placed the body in its original position, there is no such averments either in the complaint or when he was examined by the Investigating Officer under Section 161 Cr.P.C. Therefore the evidence of P.W.1 is not trustworthy to base conviction. The appellants are entitled to get the benefits of doubt and accordingly, the Judgment of conviction and sentence imposed by the trial Court is liable to be set aside.



In the result, the Criminal Appeal is allowed and the conviction and sentence imposed on the appellants 1 to 4/accused by the learned Sessions Judge, Thiruvannamalai in S.C.No.93 of 2008, dated 31.01.2014 is set aside and the appellants/accused are acquitted from the charges. The fine amount, if any paid, shall be refunded to them. The bail bond, if any, executed by the appellants/accused, shall stand cancelled.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1. The Sessions Judge,
Thiruvannamalai.
2. The Inspector of Police
Arani Town Police Station,
Kalambur Police Station,
Thiruvannamalai District.
3. The Public Prosecutor
High Court, Madras.
- 4.The Judicial Magistrate,
Arani,
Thiruvannamalai.
- 5.The Chief Judicial Magistrate,
Thiruvannamalai.(for information)
- 6.The Superintendent,
Central Prison,
Vellore.

+1cc to M/s.T.S.Gopalan & Co, Advocate sr.no.28029

CRL.A.No.83 of 2014

ssv(co)
nr 03/05/2018