

Bail Slip

Mr.Kanagaraj S/o Ganaprakasam aged 36 years accused in S.C.No.39 of 2008 on the file of Sessions Judge for the trial of Bomb Blast Cases, Coimbatore was enlarged on bail in M.P.1/2011 in Crl.A.20/2011 vide this court order dated 06.01.2011.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.03.2018

DELIVERED ON :09.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Criminal Appeal No.20 of 2011

Kanagaraj

...Appellant

Vs

State Rep. by the
Inspector of Police,
B-5, Singanallur P.S.,
Coimbatore.
(Cr.No.670/2007)

...Respondent

Prayer: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, against the Judgment dated 30.05.2008 passed in S.C.No.39 of 2008 by the learned Sessions Judge for the trial of Bomb Blast Cases, Coimbatore convicting and sentencing the Appellant/A2, 7 years R.I. under Section 392 of I.P.C., 7 years R.I. under Section 392 r/w 397 of I.P.C. and 7 years R.I. under Section 506(ii) of I.P.C. and prays that this Court may be pleased to set aside the conviction and sentence passed against him and acquit him.

For Appellant : Mr.E.Kannadasan
(Legal Aid Counsel)

For Respondent : Mrs.T.P.Savitha
Government Advocate (Crl.Side)

JUDGMENT

This present appeal is filed against the judgment of conviction passed in S.C.No.39 of 2008 on the file of the learned Sessions Court, for Exclusive Trial of Bomb Blast Cases, Coimbatore dated 30.05.2008 wherein the Appellant/Accused No-2 was convicted and sentence to undergo seven years of Rigorous Imprisonment for the proved charge No.1 to undergo seven years of Rigorous Imprisonment for the proved charge No.2, to undergo

seven years of Rigorous Imprisonment for the proved charge of No-3 and further the trial Court ordered to run concurrently.

2.The sum and substance of this Appeal as follows:

On 05.07.2007 at about 2.00 p.m at Kamaraj Road, near Mani's Theatre, while the witnesses Arivumani was walking on the road, the Accused No.1 and the Appellant/Accused No.2 stopped one Arivumani who is the PW-1 and made him to halt. The Appellant took a knife from his hip and tried to cause him hurt. The Accused No.1 snatched a gold chain weighing 1¼ sovereign from the neck of Arivumani and committed theft of it. The Appellant committed theft of Rs.1,000/- from the shirt pocket of the Arivumani. Thereby accused said to have committed offences, punishable under Sections 392, 392 r/w 397 of IPC. Further it was the case of prosecution that while committing the offence of the above said robbery, when the witnesses to catch them, A-1 and A-2 threatened the witnesses by showing a knife and by saying that if anyone try to reach them, they would draw their intestine and adorn the same as garland. Hence the prosecution has filed charge sheet for the offence under Section 506(ii) of IPC. Thereafter, the final report filed by the respondent was taken on file by the learned Judicial Magistrate No.3, Coimbatore and assigned PRC.No.9 of 2007 on the file of the said Court. After complying with the legal formalities the case was committed to the file of the learned Principal Sessions Judge, Udhagamandalam. Pursuant to the committal, the case was taken on file as Sessions Case No.20 of 2008 and the same was made over to the file of the learned trial Court after the framing of charge.

3.The trial Court has framed charges under Sections 392, 392 r/w 397 and 506(ii) of IPC and charges were read over to the accused and explained in Tamil for which the Accused had pleaded not guilty. Thereafter the trial was conducted elaborately by trial Court. On the side of the Prosecution, out of 12 list of witnesses, PWs 1 to 9 were examined and 3 witnesses have been dispensed with. Exhibits P-1 to P-7 were marked and M.O.s 1 and 2 were marked. On the side of the defense no oral or documentary evidence was exhibited.

4.Upon considering the documents and arguments made on either side, the trial Court found guilty of the accused and the Appellant/Accused No.2 was convicted and sentenced to undergo seven years of Rigorous Imprisonment for the proved charge No-1 to undergo seven years of Rigorous Imprisonment, for the proved charge No.2, to undergo seven years of Rigorous Imprisonment for the proved charge of No.3 and further the trial Court ordered to run concurrently. As against the same the present Appeal is filed.

5.I heard Mr.E.Kannadasan, learned Legal Aid Counsel for the appellant and Mrs.T.P.Savitha, learned Government Advocate

(Criminal Side) for the respondent and perused the entire materials available on record.

6. On perusal of the record, this Court able to see that the PW-1 is the victim, PW-2 to 7 said to have been eye witnesses. The perusal of records discloses that the evidences of PW-1 to 7 are corroborated with each other. PW.1 stated in his evidence that on 05.07.2007 by around 2.00 P.M. he was coming near Mani's theatre during which two persons came in a motor cycle towards him and one of them displayed a knife, demanded his chain and when he refused to part with, one of them forcefully snatched chain from his neck and the second one took away Rs.1,000/- from his pocket. Thereafter the A-1 and appellant threatened the PW-1 in the presence of the witnesses PW-2 to PW-7.

7. It is seen from the records that the PWs-2 to 7 were adduced the evidence in the same line and added strength to the prosecution case. Though there were small contradictions among the evidence adduced by PWs-1 to 7, merely because of the minor contradiction the evidences of eye witnesses cannot be thrown out. In all probabilities the learned trial judge has rightly come to conclusion that the 2nd accused involved in the above crime along with A-1 and they were sentenced in the above terms. This Court has taken serious view that the trial Court had recorded that the accused are having previous cases and therefore the sentence imposed by the trial Court is right one.

8. In view of the foregoing discussions, though this Court is not able to see any ground to interfere with the well considered judgment of the trial Court, considering overall aspect of the case and also occurrence took place in the year 2007, to meet the ends of justice it would be proper on the part of this Court to reduce the sentence alone. Therefore, this Court hereby modifies the sentence from 7 years to 1 years. With the above modification of the sentence the appeal is partly allowed. The learned jurisdictional Judicial Magistrate is directed to put the Appellant/Accused No-2 into judicial custody forthwith. The period undergone by the Appellant is hereby set-off.

9. In the result, this Criminal Appeal is partly allowed by modifying the sentence as indicated above.

10. The Legal Aid authorities attached to this Court is directed to pay a sum of Rs.3,000/- as fees to the Legal Aid Advocate Mr.E.Kannadasan.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1. The Sessions Judge for the trial of
Bomb Blast Cases, Coimbatore.

2. The Principal District Judge
Coimbatore.

3. The Chief Judicial Magistrate
Coimbatore.

4. The Judicial Magi No.3
Coimbatore.

5. The Public Prosecutor
High Court, Madras 104.

6. The Superintendent of Police
Coimbatore

7. The Superintendent
Central Prison, Coimbatore.

8. The Inspector of Police
B5 Singanallur Police Station
Coimbatore.

9. The Secretary
Legal Services Authority
High Court, Madras 104.

+1 CC to Mr.E.Kannadasan, Advocate sr 76877

Criminal Appeal No.20 of 2011

SS(CO)
SP(29/11/2018)

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