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The Appellant/Accused, namely Kannaiyan was directed to be released on bail as per order dated 30.04.2013 in CRL MP.NO.1/13 IN CRL A.NO.361/2013 on the file of this Hon'ble court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2018

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN
Crl.A.No.361 of 2013

Kannaiyan ...Appellant/Accused

Vs.

State rep. By
The Inspector of Police,
B-7, Ramanathapuram (L&O) Police Station,
Coimbatore City. ...Respondent/Complainant

This Criminal Appeal filed under Section 374(2) Code of Criminal Procedure to set aside the conviction and sentence passed against the appellant/accused on 14.03.2013 in S.C.No.265 of 2011 by the learned IV Additional District and Sessions Judge, Coimbatore and acquit him from all the charges.

For Appellant : Mr.S.Saravana Kumar

For Respondent:Mr.R.Ravichandran
Government Advocate (Crl. Side)

J U D G M E N T

This Criminal Appeal has been filed to set aside the judgment of conviction and sentence passed against the appellant/accused on 14.03.2013 in S.C.No.265 of 2011 by the learned IV Additional and Sessions Judge, Coimbatore.

2. The case of the prosecution is that on 29.02.2010 at about 6.00 P.M., due to previous enmity, the accused stabbed P.W.1/injured witness with knife. Thereafter, P.W.1 was taken to hospital, A complaint was also lodged before the respondent police. The respondent police went to the hospital and recorded a statement and registered a complaint in Crime No.154 of 2010. After investigation, the respondent police filed charge sheet before the



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learned Judicial Magistrate No.VI, Coimbatore against the accused for offence under Section 307 IPC. After completing the legal formalities, the learned Magistrate committed the case along with the accused to the learned IV Additional District and Sessions Judge, Coimbatore. The learned Additional District and Sessions framed charges against the accused for offence under Sections 307 IPC. The prosecution, in order to prove the case before the trial Court has examined as many as 15 witnesses viz., P.W.1 to P.W.15, marked Ex.P.1 to P.8, documents and produced the material object, M.O.1 to M.O.2. On the side of the respondent, D.W.1 to D.W.3 have been examined and no document was marked. After considering the legal facts, the learned Additional District and Sessions Judge, Coimbatore convicted the accused for offence under Section 324 IPC and sentenced him to undergo one year rigorous imprisonment and pay a fine of Rs.500/-, in default, to undergo one month rigorous imprisonment. As against the judgment of conviction and sentence, the accused has preferred the present appeal before this Court.

3. The learned counsel for the appellant would submit that there is no eye witness in this case and the accused also sustained injury and made a complaint before the respondent police, which was not taken on the file. The weapons have not been recovered from the accused and recovers witness has not been examined and also the witness who was examined has turned hostile. None of the witnesses have supported the prosecution, except the wife and son of the victim. Though some other witnesses have supported the case of the prosecution, they are interested witnesses and witnesses of P.W.1. Therefore, their evidence is not trust worthy the doctor who was treated P.W.1 has not been examined. The Prosecution has failed to prove the case beyond reasonable doubts. Therefore, benefit of doubt can be extended to the accused. Therefore, under these circumstances, the accused has to be acquitted and the order passed by the learned IV additional and Sessions Judge, Coimbatore dated 14.03.2013 in S.C.No.265 of 2011 is set aside.

4. The learned Government Advocate (Crl. Side) would submit that P.W.1 is victim and P.W.2, his wife and P.W.3 are eyewitnesses and they have clearly spoken about the occurrence and the fact that the accused used a knife and for stabbed in the abdomen of P.W.1. It is the vital part of a human which shows that the intention of the accused was to commit murder of P.W.1. Since the wound was not severe and P.W.1 recovered from injury he escaped from death. Therefore, the learned trial Judge converted the offence from 307 to 324 IPC. The Doctor's evidence also proved that the accused used a sharp weapon to cause



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injury. Therefore, there is no reason to interfere with the order passed by the learned Judge.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. The case of the prosecution is that P.W.1 is the victim and he sustained injury. The appellant is the accused and he caused injury to the victim. Therefore P.W.1, P.W.2, P.W.3 and P.W.9 have clearly spoken about the occurrence and the A.R.copy/Ex.P.6 clearly shows that P.W.1 was assaulted by a known person with knife. Therefore, the first ever document is the accident register copy, which clearly shows that the accused stabbed P.W.1 with knife. It is shown that the accused used the knife as weapon. The evidence adduced by the prosecution witness is clear, cogent and convincing. The learned trial Judge has given justifiable reasons for convicting and sentencing the accused. This Court does not see any reason to interfere with the same.

7. However, considering the fact that the parties are relatives and nearly eight years has gone by after the incident, this Court is of the view that ends of justice modifying the sentence of one year to six months. The trial Court is directed to secure the custody of the appellant and make him to undergo the remaining period of the sentence.

8. In view of the above, this Criminal Appeal is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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To

1. The IV Additional District and Sessions Judge, Coimbatore.
2. The Public Prosecutor, High Court, Madras.
3. The Inspector of Police,
B-7, Ramanathapuram (L&O) Police Station,
Coimbatore City.

+1cc to Mr.S.Saravana Kumar , Advocate SR.No. 66425

Crl.A.No.361 of 2013

and

M.P.No.1 of 2013

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A.SK(30/08/2019)