

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :27.04.2018
CORAM

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

CRL.A.No.270 of 2010

Manoharan

... Appellant/Sole Accused

Vs .

State rep. By

The Inspector of Police,

B-13, Poothanur Police Station,

Law and Order,

Coimbatore City,

Cr.No.1278 of 2009.

... Respondent/Complainant

Prayer : The Criminal Appeal filed under Section 374(2) of Criminal Procedure Code to set aside the Judgment of conviction passed by the Fast Track Court II Coimbatore (Additional District & Sessions Judge) in S.C.No.114 of 2009 dated 16.11.2009, convicting him to under go 10 years Rigorous Imprisonment and also to pay fine of Rs.1000/- and in default further imprisonment of 6 months R.I., for offence under Section 304 (1) IPC.

For Appellant : Mr.R. Ganesh Babu

For Respondent: Mr.Arul Mozhi Maran

Government Advocate (Crl.Side)

JUDGMENT

This appeal has been filed by the accused against the Judgment of conviction and sentence passed by the Additional District and Sessions Judge (FTC-II) Coimbatore, dated 16.11.2009 in S.C.No.114 of 2009.

2. The respondent herein has filed a charge sheet against the appellant herein alleging that on 08.07.2009 at about 10.30 p.m., the appellant herein has committed murder of his wife and hence, he has to be punished u/s.302 of IPC. Based on the said charge sheet, the learned Judicial Magistrate No.VII, Coimbatore, has taken the case on file in PRC.No.9 of 2009 and committed the case to the Court of Sessions, Coimbatore. The Principal Sessions Judge, Coimbatore, has taken the case in S.C.No.114 of 2009 and made over the case to the Additional District and Sessions Judge (FTC-II/ Coimbatore) for disposal in accordance with law.

3. After receipt of the records and after appearance of the accused, the learned Additional District and Sessions Judge(FTC-

II Coimbatore) has framed the charge u/s.302 of IPC. After framing charge u/s.302 of IPC, he questioned the accused with regard to the charge framed against him. The accused denied the charge and pleaded not guilty. Thereafter, the learned Additional Sessions Judge has tried the case.

4. During trial, on the side of the prosecution P.W.1 to P.W.20 were examined. Ex.P1 to Ex.P16 were marked and Material Objects 1 to 12 were marked. The learned Trial Judge after closing evidence on the side of the prosecution, questioned u/s.313 of Cr.P.C., with regard to the incriminating circumstances existing in the evidence of the prosecution witnesses. The accused denied them as false. On the side of the accused, witnesses were not examined and exhibits also not marked.

5. The learned Trial Judge after hearing both sides and considering the materials produced before him found the accused guilty u/s.304(i) IPC. Thereafter the accused was questioned with regard to the sentence to be passed against him. The accused said that he is a poor man and he is having one son and he pleaded to award lesser sentence.

6. The learned Trial Judge, after considering the aforesaid statements of the accused, convicted the accused to undergo R.I., for 10 years and also imposed a fine of Rs.1000/, in default, to undergo further six months R.I., for the offence under Section 304 (1) IPC. He also ordered that the period already undergone during trial shall be given set off u/s. 428 of Cr.P.C.,

7. Aggrieved by the aforesaid conviction and sentence, the accused has preferred the present appeal. When this appeal came up for hearing, the learned counsel for the appellant and also the learned Government Advocate (Crl.Side) for the respondent submitted that from the date of arrest, the accused was in custody. They further submitted that the Government gave remission for some period and taking into consideration, the period already undergone, the accused, has been ultimately released from the jail.

8. Taking into consideration the aforesaid submission, the appeal is dismissed as infructuous.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

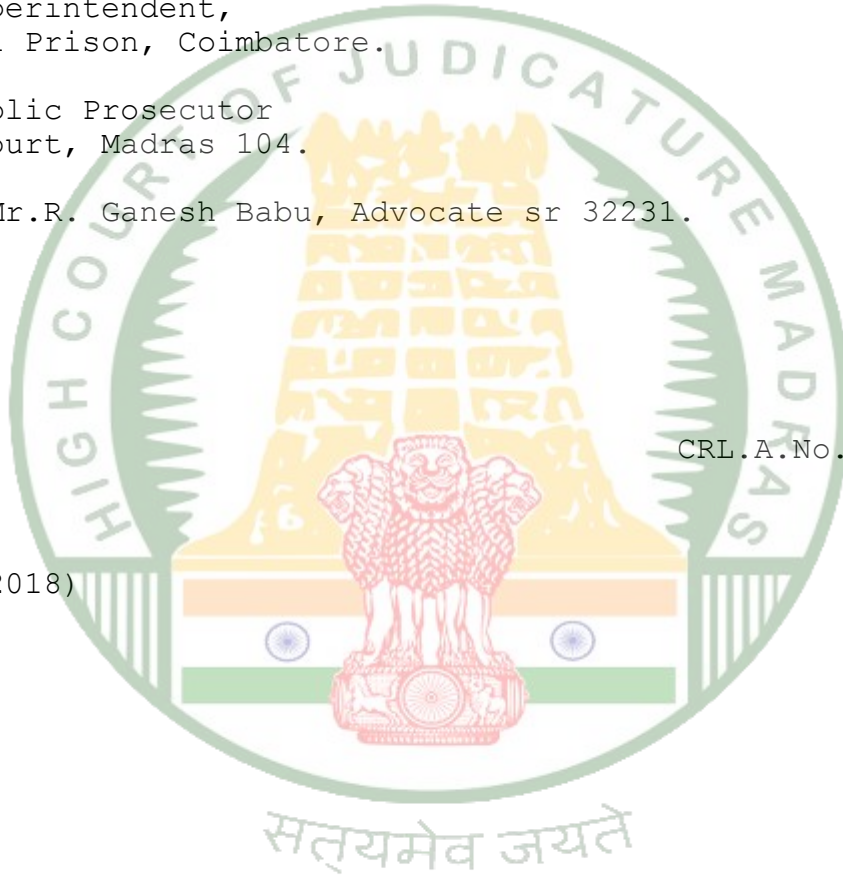
gv

To

1. The Inspector of Police,
B-13, Poothanur Police Station,
Law and Order,
Coimbatore City.
 2. The Additional District & Sessions Judge
Fast Track Court II, Coimbatore
 3. The Superintendent,
Central Prison, Coimbatore.
 4. The Public Prosecutor
High Court, Madras 104.
- +1 CC to Mr.R. Ganesh Babu, Advocate sr 32231.

CP(CO)
SP(19/06/2018)

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