

IN THE HIGHCOURT OF JUDICATURE AT MADRAS

Reserved on : 25.06.2018

Pronounced on : 28.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

CRL.A.No.433 of 2009

Vellai @ Karthick

...Appellant

versus

State by Inspector of Police (L & O)
Arumbakkam Police Station, Chennai
(Cr.No.534/2007)

...Respondent

Prayer: Criminal Appeal is filed under Section 374 (2) of Code of Criminal Procedure to set aside the conviction and sentence imposed on the appellant by the Fast Track Court No.2 in and by Judgment dated 31.03.2009 in S.C.No.424 of 2008 on the file of the Fast Track Court No.2 (Sessions Judge) Chennai.

For Appellant : Mr.S.Kalyanaraman

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 Sessions Judge (FTC-II) Chennai dated 31.03.2009 in S.C.No.424 of 2008.

2. The respondent herein has filed a charge sheet stating that on 31.08.2007 at about 6.30 p.m., the appellant herein trespassed into the house of the defacto complainant viz., Tmt.Jayalakshmi which is situated in Dr.No.22/77, Pallavan street, MMDA colony, Arumbakkam and kidnapped her minor daughter Esha aged about three years with an intention to murder her and took the said child to the branch road which runs from spur Tank road, Chetpet towards Koovam river and there, he removed the dress of the said child and caused injuries on the neck and in the portion in between stomach and private part by a knife and thereby he attempted to commit murder of the said child and hence, he has to be punished for the offences punishable u/s.451, 364, 307, 326 IPC. For the sake of

convenience, the parties are referred to as described before the trial court.

3. Based on the aforesaid chargesheet, the learned V Metropolitan Magistrate has taken the case on file in PRC.No.24 of 2008 and after furnishing copies to the accused, he committed the case to the Court of Principal Sessions Judge, Chennai.

4. The learned Principal Sessions Judge, Chennai, has taken the case on file in S.C.No.424 of 2008 and made over the same to the Additional Sessions Judge (FTC-II).

5. On appearance of the accused, the learned Additional Sessions Judge, after hearing both sides and perusing the records, framed charges u/s.452, 364, 307 of IPC and questioned the accused with regard to the aforesaid charges. The accused denied the charges and pleaded not guilty. Thereafter, the learned Additional Sessions Judge fixed the date for trial and examined the prosecution witnesses.

6. On the side of the prosecution, PW1 to PW10 were examined and Ex.P1 to Ex.P16 were marked and MO1 to MO6 were marked.

7. The evidence on the side of the prosecution was closed with PW10. Thereafter, the accused was questioned u/s.313 Cr.P.C., with regard to the incriminating circumstances found in the evidence of the prosecution witnesses. The accused denied them as false and he has not examined any witness on his side.

8. The learned Additional Sessions Judge after hearing both sides and considering the materials placed before him found the accused guilty u/s.452, 364, 307 of IPC and questioned with regard to the sentence to be awarded against him. The accused pleaded to award lesser sentence. After considering his plea, the learned Additional Sessions Judge convicted the accused u/s.452, 364, 307 of IPC and awarded seven years Rigorous Imprisonment and a fine of Rs.1000/-, in default, to undergo two months Rigorous Imprisonment for each of the offences. He also ordered that the aforesaid sentences shall run concurrently. He also ordered that the period of custody during investigation and trial shall be given set off u/s. 428 of Cr.P.C., Aggrieved by the same, the accused preferred the present appeal.

9. Heard Mr.S.Kalyanaraman, learned counsel for the appellant and Mr.Arul Mozhi Maran, learned Government Advocate (Crl.Side) for the respondent.

10. At the time of arguments, the Government Advocate (Crl.Side) appearing for the respondent/State has submitted that already the appellant has served the entire period of sentence and he was released from the prison on 16.02.2013 itself and

hence, the appeal has become infructuous. In support of his contention, he has produced the letter sent by the Superintendent, Central Prison, Puzhal, Chennai. A perusal of the said letter shows that the appellant/accused was already released from the jail after serving the entire period of sentence. So, this appeal has become infructuous and the same is liable to be dismissed.

11. In the result, this Criminal Appeal is dismissed as infructuous.

Sd/-

Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

gv

To

1. The Inspector of Police,
Arum Police Station,
Chennai.
2. The Fast Track Court No.II (Sessions Judge)
Chennai.
3. The Superintendent central Prison,
Puzhal, Chennai.
4. The V Metropolitan Magistrate,
Egmore, Chennai.
5. The Section Officer,
Criminal Section,
High Court, Madras.
6. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Kalyanaraman, Advocate SR.No.41501

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PVS (CO)
GN(30/07/2018)