



**Bail Slip**

The Appellant Accused namely Kalichamy, aged about 60 years (A1), S/o.Ramumoopar, Chinna Rasu, aged about 40 years (A2), Periya Veeran aged about 28 years (A3) are directed to be released on bail as per order of this Court dated 28.06.2012 and made in MP(MD).Nos.1 & 1 of 2012 and made in Crl.A.(MD).Nos.120 and 121 of 2012 on the file of this Court.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2019

CORAM:

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

Crl.A(MD)Nos.120 and 121 of 2012

Kalichamy ... Appellant/Accused No.1  
in Crl.A.(MD)No.120 of 2012

1.Chinna Rasu  
2.Periya Veeran ... Appellants/Accused Nos.2 & 3  
in Crl.A.(MD)No.121 of 2012

Vs

State through Inspector of Police,  
Aruppukottai Taluk Police Station,  
Crime No.197/2009. ... Respondent in both Crl.As.

**Common Prayer:** Criminal Appeal is filed under Section 374 of Cr.P.C., to admit this appeal on file, call for the records from the lower Court, hear the arguments and may be pleased to set aside the Judgment and conviction imposed by the learned Principal Sessions Judge, Srivilliputhur in S.C.No.162 of 2009, dated 21.06.2012.

|                                     |                                                                      |
|-------------------------------------|----------------------------------------------------------------------|
| For Appellant<br>(in both Crl.As.)  | : Mr.Veera Kathiravan<br>Senior Counsel<br>for Mr.D.Farjana Ghoushia |
| For Respondent<br>(in both Crl.As.) | : Mr.A.Robinson<br>Government Advocate (Crl.side)                    |

**COMMON JUDGMENT**

The appellants were convicted and sentenced by the Court below for the offence under Section 304(i) of IPC r/w 34 of IPC and sentenced to undergo 10 years rigorous imprisonment and also levied



with fine.

2.The case of the prosecution is that the deceased Ramachandran is the son-in-law of Al-Kalichamy. The mother of Ramachandran, P.W.1-Subammal is none other than the own sister of Kalichamy. Ramachandran had been given in marriage to P.W.4-Chinnaponnu daughter of kalichamy. While so, on 29.05.2009, at about 08.00 a.m., in the agricultural field of Al, the appellants are said to have beaten Ramachandran with stick and caused his death. In this regard, P.W.1-Mother of the deceased Ramachandran lodged Ex.P1 complaint before the Arupukkottai Taluk Police Station. Crime No.197 of 2009 was registered (Ex.P11) for the offence under Section 302 of IPC. Investigation was taken up and P.W.9-Inspector of Police filed final report before the Judicial Magistrate, Arupukkottai for the offence under Section 302 r/w 34 of IPC against the three appellants herein. The case was committed to the Sessions Court in P.R.C.No.44 of 2009. It was taken up for trial in S.C.No.162 of 2009 on the file of the Principal Sessions Judge, Virudhunagar District, Srivilliputhur. Charge was framed against the accused for the aforesaid offence under Section 302 r/w 34 of IPC. The appellants pleaded not guilty to the charge and claimed to be tried. The prosecution examined nine witnesses and marked Ex.P1 to Ex.P16. M.O.1 to M.O.8 were also marked. On the side of the accused, no evidence was adduced. The learned trial Judge, by the impugned Judgment, dated 21.06.2012, acquitted the appellants of the charge under Section 302 r/w 34 of IPC, but found them guilty for the offence under Section 304(i) of IPC r/w 34 of IPC. Sentenced was given as mentioned above. Questioning the same, these two appeals have been filed. While A1 filed Crl.A.(MD)No.120 of 2012. A2 and A3 filed Crl.A.(MD)No.121 of 2012.

3.Heard the learned Senior Counsel appearing for the appellants and the learned counsel appearing for the respondent.

4.I carefully considered the rival contentions and perused the evidence on record.

5.The prosecution in support of its case examined P.W.1-Subbammal, the mother of the deceased, Sakthivel-Son of P.W.1 and the brother of the deceased and P.W.3-Madurai Veeran who is a distant relative. P.W.1 and P.W.2 are the eye witnesses. They have strongly supported the prosecution case. P.W.3-Madurai Veeran is only a mahazer witness. P.W.4-Chinnaponnu is the wife of the deceased and she turned hostile. P.W.5-Rasu and P.W.6-Nallamaruthan also turned hostile. P.W.7 was the Sub Inspector of Police, who registered the FIR. P.W.8 is the Postmortem Doctor. P.W.9 had



6.The learned Senior Counsel appearing for the appellants rightly did not challenge the finding of guilt and instead focused on securing reduction of punishment. He pointed out that the deceased was leading a way-ward life and was having affair with several women. He had driven away Chinnaponnu. Chinnaponnu was under the care and custody of her father namely A1-Kalichamy. While on the occurrence date, the deceased came to the field of A1 and demanded that he should send Chinnaponnu to him. P.W.1-mother of the deceased is an eye witness, stated that A1 told the deceased that without getting beaten up, he must leave the spot and go away. It appears that the deceased did not leave the spot and had caused some damage to the jasmine plants grown by A1. It is this that had triggered the entire occurrence. A1 is an agriculturalist by avocation. When the plants grown by him were damaged willfully by the deceased, he flew into rage. I must note that the occurrence had taken place inside the field of A1. It means that the deceased invited trouble. The further contention of the learned Senior Counsel is that it was the deceased who was the trespasser. That is why, the Court below rightly acquitted the appellants of the charge of murder.

7.It is seen that even, according to the P.W.1-Mother of the deceased, A2 hit the deceased on his hands. A3 hit the deceased on his leg. The fatal injuries were caused only by A1. The deceased admittedly died only due to head injury suffered at the hands of A1. A2 and A3 had spent about 76 days in prison. Therefore, even while sustaining the conviction imposed on them, the sentence of imprisonment is reduced to the period already undergone by A2 and A3. Criminal Appeal (MD)No.121 of 2012 is partly allowed.

8.Coming to the sentence to be imposed on A1, this Court wanted to reduce the sentence of imprisonment from 10 years rigorous imprisonment to three years rigorous imprisonment. But then, the learned Senior Counsel would point out that A1 is now aged about 76 years. He pleaded that no father would like his daughter to become a widow. The entire occurrence had taken place in the heat of the moment and there was no deliberate design or intention. He would also point out that the children of the deceased are now care and custody of A1 only. One child is a special child being of hyperactive nature. P.W.4 is the wife of the deceased and the daughter of A1. She is also with A1. A1 is the sole breadwinner of the family. Therefore, taking note of these mitigating and exceptional factors, the sentence of imprisonment imposed on A1 is reduced from 10 years rigorous imprisonment to one year rigorous imprisonment. The period of incarceration already undergone by the appellant/A1 will be set off in terms of 428 of Cr.P.C.



9. With this modification in the matter of sentence, these Criminal Appeals are partly allowed.

Sd/-

Assistant Registrar (CS-I)

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/ /2020

Sub Assistant Registrar(CS)

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To

1. The Principal Sessions Judge, Srivilliputhur.
2. The Judicial Magistrate, Aruppukottai.
3. Do through The Chief Judicial Magistrate,  
Virudhunagar District at Srivilliputhur.
4. The Superintendent, Central Prison, Madurai.
5. The Inspector of Police,  
Aruppukottai Taluk Police Station.
6. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

Copy to:

The Section Officer, Criminal Section, (2 Copies)  
Madurai Bench of Madras High Court, Madurai.

+4 CC to M/s.VEERA ASSOCIATES, SR-79765 & 80560/2019

Crl.A(MD)Nos.120 and 121 of 2012  
02.08.2019

JMN(25.02.2020) 4P : 13C