



Bail Slip

Ayyappan, S/o. Velu aged about 43 years was released on bail vide the order of this Court made in MP(MD).1 of 2011 in CRL A(MD) No.1 of 2011.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHANCrl. A. (MD) No.1 of 2011

Ayyappan

.. Appellant/ Sole Accused

Vs.

State through,
The Inspector of Police,
Nilakkottai Police Station,
Dindigul District.
(Crime No.284 of 2009)

.. Respondent/Complainant

Prayer : This Criminal Appeal is filed under Section 374 of Cr.P.C., to call for the records connected with Judgment dated 13.08.2010 in S.C.No.31 of 2010 on the file of the Principal District and Sessions Judge, Dindigul, and set aside the same and acquit the appellant/sole accused.

For Appellant : Mr.R.Alagumani

For Respondent : M/s.A.Robinson,

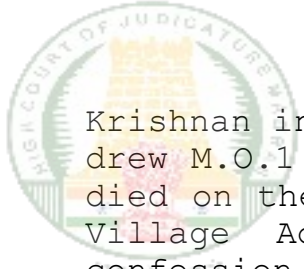
Government Advocate(Crl. Side).

JUDGMENT

The appellant was convicted for the offence under Section 304 (Part-1) of I.P.C. and sentenced to undergo 10 years Rigorous Imprisonment vide Judgment dated 13.08.2010 in S.C.No.31 of 2010 on the file of the Principal Sessions Judge, Dindigul.

2. Heard the learned counsel on either side.

3. The case of the prosecution is that the appellant was married to one Amaravathi. Two sons were born through the wedlock. The appellant's wife Amaravathi is said to have been developed illicit intimacy with one Krishnan. The appellant had censured his wife in this regard. But on 24.05.2009 at about 04.30 a.m., when the appellant woke up, he found that his wife was missing. He drove to the backyard and he saw his wife and the said

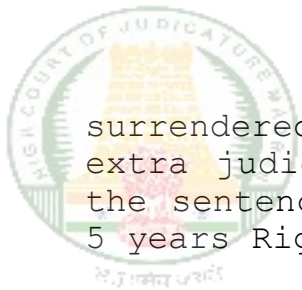


Krishnan in a compromising position. The appellant in a fate of rage drew M.O.1 Aruval and hacked his wife on both her arms. Amaravathy died on the spot. Thereafter, the appellant surrendered before the Village Administrative Officer P.W.1 and gave extra judicial confession vide Ex.P.1. The Village Administrative Officer took the appellant to Nilakottai police station and lodged information vide Ex.P.2. Ex.P.15 First Information Report in Crime No.289 of 2009 was registered for the offence under Section 302 of I.P.C. Investigation was conducted and final report came to be filed before the Judicial Magistrate, Nilakottai, for the offence under Section 302 of I.P.C. The case was committed to the Sessions Court in P.R.C.No.24 of 2009. The case was taken up for trial in S.C.No.31 of 2010. The charges under Section 302 of I.P.C., was framed against the appellant. The appellant pleaded not guilty and claimed to be tried.

4. The prosecution examined as many as 16 witnesses and marked Ex.P.1 to Ex.P.24. M.O.1 to M.O.8 were also marked. On the side of the accused, no evidence was adduced. The incriminating circumstances were put to the accused under Section 313 of Cr.P.C. The accused denied them as false. The learned trial Judge by the impugned Judgment dated 13.08.2010 acquitted the appellant for the offence under Section 302 of I.P.C., but convicted him for the offence under Section 304(Part-1) of I.P.C., and sentenced him to undergo 10 years Rigorous Imprisonment. Questioning the same, this Criminal Appeal came to be filed.

5. The prosecution had examined the sons of the appellant. They are P.W.2 Kanipriyan and P.W.3 Chithiravel. Both of them, have clearly deposed that they witnessed their father hacking their mother Amaravathy. P.W.4 is the brother of Amaravathy. He had also stated that the appellant suspected his wife over her conduct. P.W.1 Village Administrative Officer before whom the appellant surrendered immediately after the occurrence and gave his extra judicial confession. His extra judicial confession has been proved beyond reasonable doubt by the prosecution.

6. Having regard to the evidence on record, the learned counsel appearing for the appellant submitted that he would not challenge the finding of guilt and that he would only plead for modification in the matter of sentence. The appellant's counsel further submitted that the appellant is eking out his livelihood by fortune telling and that he has not come under the adverse notice of the respondent either before or after the occurrence. The crime in question was done out of grave and sudden provocation. The appellant while seeing his wife and one Krishnan in a compromising terms, could not control his emotions and that is why the occurrence had taken place. He also pointed out that the appellant attacked his wife with M.O.1 Aruval only on her hands and not on any vital part of the body. The conduct of the appellant would also deserve to be noted. He did not try to flee from the arms of law. He



surrendered before the Village Administrative Officer and gave his extra judicial confession. These circumstances, impel me to reduce the sentence of imprisonment from 10 years Rigorous Imprisonment to 5 years Rigorous Imprisonment.

7. In the result, the conviction imposed on the appellant is confirmed and the sentence of imprisonment is reduced from 10 years Rigorous Imprisonment to 5 years Rigorous Imprisonment. The period of incarceration undergone by the appellant will be set off under Section 428 of Cr.P.C. The learned trial Judge is directed to secure the appellant to undergo the remaining period of sentence. The bail bond, if any, executed by him shall stand cancelled.

8. The Criminal Appeal stands partly allowed.

Sd/-

Assistant Registrar(CS-II)

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/ /2020

Sub Assistant Registrar(CS)

pmu

To

1. The Principal District and Sessions Judge,
Dindigul.

2. The Inspector of Police,
Nilakkottai Police Station,
Dindigul District.

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

+1 CC to M/s.R.ALAGU MANI, Advocate (SR-81438[F] dated 13/08/2019)

CrI. A. (MD) No.1 of 2011
09.08.2019

AL(CO)

TR(27.01.2020) 3P 6C