

**Bail Slip**

Manikandan, Appellant/Accused No.1, S/o. Shanmugasundara Konar, is released on bail vide Court order dated 01.03.2019 made in CrI.MP(MD).No.1479 of 2019 in CrI.A.(MD).No.168 of 2012

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**CrI.A.(MD)No.168 of 2012**

Manikandan

... Appellant/Accused No.1

Vs.

State rep. by,
The Inspector of Police,
Thiruchendur Temple Police Station,
Thiruchendur,
Thoothukudi District.
(Crime No.328 of 2009)

... Respondent/Complainant

Prayer: Criminal Appeal is filed under Section 374(2) of Cr.P.C, to allow this appeal and call for the records in S.C.No.269 of 2011 on the file of the learned I Additional District and Sessions Judge, Thoothukudi and set aside the Judgment in S.C.No.269 of 2011, dated 25.06.2012 and acquit this appellant.

For Appellant : Mr.Antony S.Prabahar

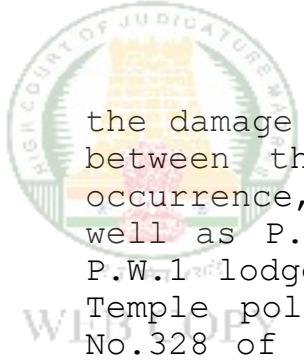
For Respondent : Mr.A.Robinson,
Government Advocate (CrI. Side).

* * *

JUDGMENT

The appellant was convicted for the offence under Section 307 of I.P.C., and sentenced to 7 years Rigorous Imprisonment vide Judgment dated 25.06.2012 in S.C.No.269 of 2011 on the file of the learned I Additional District and Sessions Judge, Thoothukudi.

2. The prosecution case is that there was a dispute between the family of the accused and the defacto complainant with regard to

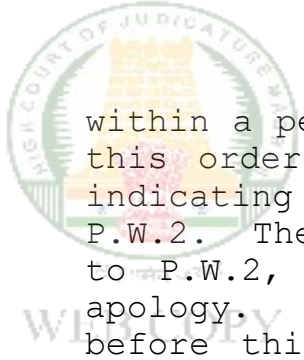


the damage caused to the water pipes of P.W.1. There arose a quarrel between the two on 01.08.2009 at about 08.30 a.m. During the occurrence, accused Nos.1 and 2 are said to have hacked P.W.1 as well as P.W.2 and caused them grievous injuries. In this regard, P.W.1 lodged Ex.P.1 complaint on the same day before Thiruchendur Temple police station. Ex.P.8 First Information Report in Crime No.328 of 2009 was registered for the offences under Sections 147, 148, 294(b), 324 and 307 of I.P.C. Investigation was taken up and final report came to be filed before the learned Judicial Magistrate, Thiruchendur, for the offences under Sections 147, 148, 294(b), 324 and 307 of I.P.C. Since the offences are exclusively triable by the Sessions Court, the case was committed to the Sessions Court in P.R.C.No.17 of 2011. It was made over to the learned I Additional District and Sessions Judge, Thoothukudi, in S.C.No.269 of 2011. They were totally five accused. They pleaded not guilty to the charges and claimed to be tried. The prosecution examined as many as 11 witnesses and marked Ex.P.1 to Ex.P.10. M.O.1 Aruval was also marked. On the side of the accused, no evidence has been adduced. The learned trial Judge by Judgment dated 25.06.2012, while acquitting the other accused, convicted accused Nos.1 and 2 alone. Accused No.2 is no more.

3. In this case among the witnesses examined by the prosecution, P.W.1 and P.W.2 are the most important. Both are injured witnesses. They are the mother and son. P.W.2 had suffered serious injury on his head. He had deposed that accused No.1 Manikandan aimed M.O.1 Aruval on his neck and that when he bent his head, it fell on his head. P.W.2 had suffered skull fracture. It is stated that as a result, the right side of his body had become immobilized. The testimony of P.W.2 is clear and categorical and could not be shaken in the cross examination. Medical evidence is also consistent with the testimony of P.W.2.

4. 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 he pleaded only for modification in the matter of sentence. The appellant's counsel submitted that the appellant is not married. He is supporting his aged mother and also his brother. The appellant had also spent almost an year in prison. The appellant is ready to pay a sum of Rs.50,000/- as token compensation. The appellant is also ready to execute a letter of apology expressing his sense of regret and remorse for having caused a serious injury to P.W.2.

5. Taking note of these aspects, even while sustaining the conviction imposed on the appellant, this Court reduces the sentence of imprisonment from seven years Rigorous Imprisonment to 1½ years Rigorous Imprisonment. The period of incarceration already undergone by the appellant shall be set off under Section 428 of Cr.P.C. The appellant is directed to deposit a sum of Rs.50,000/- (Rupees Fifty thousand only) to the credit of S.C.No.269 of 2011 on the file of the learned I Additional District and Sessions Judge, Thoothukudi,



within a period of six months from the date of receipt of a copy of this order. The appellant shall also execute a letter of apology indicating his remorse and sense of regret for having injured to P.W.2. The learned Judge while handing over the compensation amount to P.W.2, shall also furnish him with a copy of this letter of apology. If the appellant fails to abide by the undertaking given before this Court, the Judgment passed by the trial Court will stand automatically restored.

6. With this modification in the matter of sentence, the Criminal Appeal stands partly allowed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To:

1. The I Additional District and Sessions Judge,
Thoothukudi.
2. The Inspector of Police,
Thiruchendur Temple Police Station,
Thiruchendur, Thoothukudi District.
3. The Superintendent, Central Prison,
Palayamkottai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

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

+1 CC to M/s.ANTONY S.PRABAHAR, Advocate (SR-78112[F] dated
29/07/2019)

CrI.A.(MD)No.168 of 2012
25.07.2019