



Bail Slip

Appellant/Accused namely P.Lakshmanan, aged about 84 years S/o.Perumal was directed to be released on bail as per order of this Court dated 25.04.2011 and made in MP(MD)No.1 of 2011 and made in CRL A (MD)No.131 of 2011 on the file of this Court.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL A (MD)No.131 of 2011

P.Lakshmanan

... Appellant / Sole Accused
Vs.

The State,
rep.by the Inspector of Police,
Mamsapuram Police Station,
Srivilliputhur Taluk,
Virudhunagar District.
(Crime No.183/2006)

... Respondent / Complainant

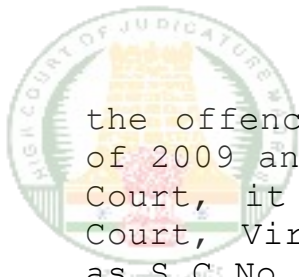
Prayer : This Criminal Appeal is filled under Section 374 of Criminal Procedure Code, to set aside the judgment and conviction passed by the learned Principal Sessions Judge, Virudhunagar District at Srivilliputhur in S.C No.61 of 2009 dated 21.01.2011 and acquit the appellant herein.

For Appellant : Mr.G.Thalaimutharasu
For Respondent : Mr.A.Robinson,
Government Advocate (crl.side)

JUDGMENT

The appellant was found guilty of the offence under Section 304 (Part II) IPC and sentenced to undergo three years rigorous imprisonment and levied with a fine of Rs.1.00 lakh vide judgment dated 21.01.2011 in S.C No.61 of 2009 on the file of the Principal Sessions Judge, Virudhunagar District at Srivilliputhur. Challenging the same, this appeal has been filed by the accused.

2.The appellant is owning lands in Kottaipatti Ponnanganni Village. In order to protect his crops, he put up an electric fence. While so, on 10.06.2006 at about 01.00 A.M, one Mayakrishnan had gone to Periyakulam Kanmai for illegally mining the sand and on knowing that the official squad arrived on the spot, Mayakrishnan panicked and ran out of fear and when trying to escape from the squad, jumped over the electric fence and got electrocuted. In the result, he died. Crime No.183 of 2006 was registered on the file of the Mamsapuram Police Station. Investigation was undertaken and final report was filed before the learned Judicial Magistrate No.II, Srivilliputhur. Cognizance of



the offence was taken and the case was taken on file in PRC No.9 of 2009 and since the case was exclusively triable by the Sessions Court, it was made over to the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur and taken on file as S.C No.61 of 2009.

3.The appellant denied the charge and claimed to be tried. The prosecution examined as many as eight witnesses and marked Exs.P1 to P11. On the side of the accused, no evidence was adduced. The Trial Judge by the impugned Judgment dated 21.01.2011 found the accused guilty of the offence under Section 304 (Part II) IPC and sentenced him as mentioned above.

4.I am of the view that having regard to the evidence on record, the conviction imposed on the appellant cannot be disturbed. I therefore confirm the conviction imposed on the appellant. But then, there arising a question for consideration as to what can be the punishment. Even when the appeal was filed, the appellant was aged about 84 years. He must now have crossed 90 years of age. It is true that the appellant committed an illegality by putting up an electric fence in violation of the rules. That is why this Court found him guilty of the offence with which he was charged. By sending a 90 years old man, interest of justice will not be served. The appellant was in prison for about 10 days. Therefore, the sentence of imprisonment imposed on the appellant is reduced to the period already undergone by him. The conviction alone is confirmed.

5.At this stage, the learned counsel for the appellant states that the appellant is having only a small extent of land and he is not having any other lands. He is subsisting on the old age pension. The appellant's counsel would further state that the appellant would deposit a sum of Rs.25,000/- to the credit of S.C No.61 of 2009 on the file of the Principal Sessions Judge, Virudhunagar at Srivilliputhur, within a period of eight weeks from the date of receipt of a copy of this judgment. The said amount shall be disbursed by the trial court to the wife of the deceased victim as compensation immediately after it is deposited.

6.With this modification, the impugned judgment is partly allowed.

Sd/-

Assistant Registrar ()

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/ /2020

Sub Assistant Registrar (CS)



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To

- 1.The Principal Sessions Judge,
Virudhunagar District at Srivilliputhur.
- 2.The Judicial Magistrate No.II, Srivilliputhur
- 3.Do Thro'
The Chief Judicial Magistrate, Srivilliputhur
- 4.The Inspector of Police,
Mamsapuram Police Station,
Srivilliputhur Taluk,
Virudhunagar District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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The Section Officer,
VR Section
Madurai Bench of Madras High Court, Madurai-2 copies

+1 CC to Mr.G.THALAIMUTHARASU, Advocate (SR-75148[F] dated
12/07/2019)

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