

**BAIL SLIP**

The Appellant/Accused was directed to be released on Bail made in Crl MP(MD)No.2/2011 in Crl.Appeal (MD)No.208 of 2011 dated 02/08/2011 on the file of the Madurai Bench of Madras High Court.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**DATED: 26.07.2019****CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****Crl.A(MD)No.208 of 2011**

1.Sudalai @ Sudalaimuthu

2.Maharajan

... Appellants

Vs.

State Represents by,
The Inspector of Police,
Thilagarthidal Police Station,
Madurai.
(Crime No.1015 of 2008)

... Respondent

Prayer: Criminal Appeal is filed under Section 374(2) of Cr.P.C, to set aside the judgment of conviction and sentence dated 03.02.2010, passed in S.C.No.401 of 2010, on the file of the learned Additional Sessions Judge, Fast Track Court No.III, Madurai.

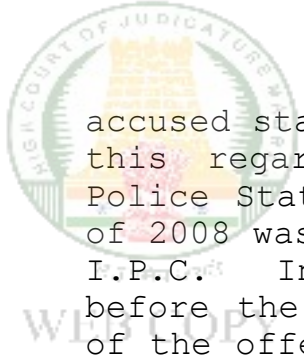
For Appellants : Ms.R.Karthika
Legal Aid Counsel

For Respondent : Mr.A.Robinson
Govt. Advocate (Crl. Side) for R1

J U D G M E N T

The appellants were convicted for the offences under Sections 341 and 307 of I.P.C. and sentenced to undergo one month rigorous imprisonment and four years rigorous imprisonment respectively vide judgment dated 03.02.2011 in S.C.No.401 of 2010, on the file learned Additional Sessions Judge, Fast Track Court No.III, Madurai.

2.The prosecution case is that P.W.1/Somu as well as the accused were plying auto in Madurai Railway Junction auto stand. There arose some petty quarrel between them. Keeping that in mind on the occurrence of date i.e., 09.07.2008 at about 09.05 p.m., the



accused stabbed P.W.1 on his abdomen as well as below his chest. In this regard P.W.1 lodged Ex.P.1/complaint before Thilagarthidal Police Station at about 11.15 p.m. on the same day. Crime No.1015 of 2008 was registered for the offence under Sections 341 and 307 of I.P.C. Investigation was undertaken and final report was filed before the learned Judicial Magistrate No.II, Maduari. Cognizance of the offence was taken and committed to Sessions Court. The case was made over to the learned Additional Sessions Judge, Fast Track Court No.III, Madurai in S.C.No.401 of 2010. Charges were framed against the accused under Sections 341 and 307 of I.P.C. Accused pleaded not guilty to the charges and claimed to be tried.

3.The prosecution examined as many as seven witnesses and marked and Exs.1 to 11. M.O.1 series of two knives was also marked. On the side of the accused no evidence was adduced.

4.The learned Trial Judge after a detailed consideration of the evidence on record by the impugned judgment convicted and sentenced the accused as mentioned above. Questioning the same, this criminal appeal has been filed.

5.When the matter was taken up for hearing, there was no representation on behalf of the appellants/accused. Hence, this Court directed the Registry to appoint legal aid counsel to represent the appellants.

6.The learned legal aid counsel apart from reiterating the contentions set out in the memorandum of grounds submitted that the prosecution examined as many as four persons as eye witnesses, P.W.2 to P.W.4 turned hostile and that the entire prosecution case rests on the solitary testimony of P.W.1. She would further point that the testimony suffers from several vital contractions. I am unable to agree with the submission of the learned legal aid counsel appearing for the appellants. It is true that other witnesses turned hostile and P.W.1 alone spoke in support of the prosecution. But then, P.W.1 is the injured witness. He had suffered two stab injuries on his vital parts of the body, one below the chest and other in his abdomen. Medical evidence clearly is to the effect that P.W.1 suffered stab injuries. FIR was also lodged and registered immediately after the occurrence. The testimony of P.W.1 is clear cogent and inspires the confidence of this Court. Therefore, this Court is of the view that the conviction imposed on the appellant by the learned Trial Judge deserves to be confirmed. It is accordingly confirmed.

7.At this stage, the learned legal aid counsel submitted that this Court can show some leniency in the matter of sentence. The first appellant was in prison for about 236 days while the second appellant was in prison for about 257 days. More than 14 years have lapsed, since the occurrence had taken place. The respondent police would state that the appellants have not come under any adverse notice thereafter. Taking note of all these mitigation aspects, the



sentence of imprisonment imposed on the appellants is reduced to the period already undergone. With this modification in the matter of sentence, this criminal appeal is partly allowed.

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Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

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To:

- 1.The Additional Sessions Judge,
Fast Track Court No.III, Madurai.
- 2.The Judicial Magistrate No.II, Madurai.
- 3.The Chief Judicial Magistrate, Madurai.
- 4.The Judicial Magistrate No.II, Tiruchirappalli.
- 5.The Superintendent, Central Prison, Madurai.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 7.The Inspector of Police,
Thilagarthidal Police Station,
Madurai.

Copy to: The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

+1 cc M/s.R.KARTHIKA ,Advocate, SR.No. 78032
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Crl.A. (MD) No.208 of 2011
26.07.2019

KK/SAR/30.08.2019/3P-11C/