

**Bail Slip**

Sakthivel, Appellant/Accused, S/o. Nagan, Male, aged about 31 years is released on Bail vide the order of this Court, dated 23.08.2010, made in MP(MD)No.1 of 2010 in CRL A(MD)No.191 of 2010.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.A(MD)No.191 of 2010

Sakthivel

...Appellant/Accused/Single Accused

Vs

State represented by
Inspector of Police,
M.Rediapatti Police Station,
Virudhunagar District.
In Cr.No.135/2009

... Respondent/Complainant.

PRAYER: Criminal Appeal is filed under Section 374 of Cr.P.C., to set aside the conviction and sentence imposed by the Principal Sessions Court, Virudhunagar District at Srivilliputhur in S.C.No.113/2009, dated 07.04.2010 and allow this criminal appeal.

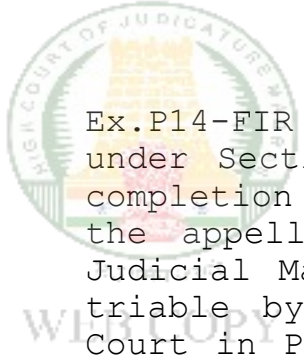
For Appellant : Mr.G.Marimuthu

For Respondent : Mr.A.Robinson
Government Advocate (Crl.side)

JUDGMENT

The appellant was found guilty of the offence under Section 304(I) of IPC and sentenced to seven years rigorous imprisonment and levied with fine of Rs.500/-, vide Judgment dated 07.04.2010 in S.C.No.113 of 2009 on the file of the Principal Sessions Judge, Virudhunagar District, Srivilliputhur. Questioning the same, this appeal has been filed.

2.The case of the prosecution is that the appellant suspecting the character and fidelity of his wife Maheswari used to pick up quarrel with her and that on 02.09.2008 at about 9.30 a.m., with regard to providing of food, a quarrel arose and the appellant with M.O.1-Aruval hacked her and that she died on the spot. In this regard, P.W.1 the father of the deceased lodged Ex.P1-Complaint before the Inspector of Police, M.Rediapatti Police Station.

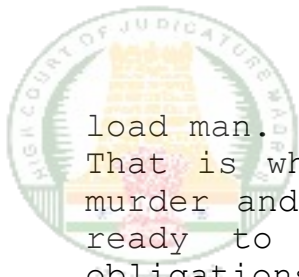


Ex.P14-FIR in Crime No.135 of 2009 was registered for the offence under Section 302 of IPC. Investigation was undertaken and after completion of the usual formalities, final report was filed against the appellant for the offence under Section 302 IPC before the Judicial Magistrate, Arupukkottai. Since the case was exclusively triable by the Sessions Court, it was committed to the Sessions Court in P.R.C.No.30 of 2009. The case was taken up for trial by the Sessions Court in S.C.No.113 of 2009. Charge under Section 302 of IPC was framed against the appellant. He denied the charge and claimed to be tried. The prosecution examined as many as 14 witnesses and marked Ex.P1 to Ex.P16. M.O.1 to M.O.11 were marked. On the side of the accused, the official who held the inquest, was examined as D.W.1. Ex.D1 and Ex.D2 were also marked. D.W.1 and D.W.2 were also marked. The learned trial Judge, after a detailed consideration of the evidence on record, acquitted the appellant of the offence under Section 302 of IPC, but chose to find him guilty of the offence under Section 304(I) of IPC and sentenced him as mentioned above. Even though the four eye witnesses were examined in support of the prosecution case, the learned trial Judge chose to disbelieve P.W.1 to P.W.3. However, the testimony of P.W.4 was found to be credible and worthy of acceptance. P.W.4-Saraswathi was the sister-in-law of the deceased. The deceased Maheswari, had an elder brother by name Devakumar who was examined as P.W.2. P.W.4 was the wife of P.W.2-Devakumar. They were neighbours of the deceased. In fact, the house of the deceased was at a distance of hardly one feet on the eastern side. She had a breast feeding child and when she was feeding her child, she saw the deceased Maheswari shouting at her husband. Immediately, in-laws of P.W.4 rushed out to see. P.W.4 deposed that she saw the accused/appellant herein running away from the house along with Aruval. She identified M.O.1 as the weapon which she saw at that time. She saw Maheswari lying dead. Her testimony could not be shaken during the cross examination.

3.A careful reading of the deposition of P.W.4 inspires the confidence of this Court and she appears to be a natural witness. Since she was having a young baby to feed, it is quite natural that she was at her house during the occurrence time. She had in the cross examination supported the prosecution case in *toto*. That apart, following the confession made by the appellant, M.O.1 was also recovered.

4.Having regard to the evidence on record, the learned counsel appearing for the appellant would rightly not challenge the conviction imposed on him. He would plead for leniency in the matter of punishment.

5.The appellants' counsel submitted that the appellant hails from the bottom most rung of the Society. He belongs to Arunthathiyar Community. He is eking out his livelihood only as a



load man. The occurrence took place more out of sudden provocation. That is why, the Court below also acquitted him of the charge of murder and found him guilty of a lesser charge. The appellant is ready to take care of the child and fulfil his maintenance obligations.

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6. Taking note of these mitigating circumstances, I am of the view that the interest of justice will be served by reducing the sentence of imprisonment from seven years rigorous imprisonment to three years rigorous imprisonment. The period of incarceration spent by the appellant will be set off in terms of Section 428 of Cr.P.C. The conviction imposed on the appellant by the Court below is confirmed. The sentence is modified. This criminal appeal is partly allowed.

Sd/-

Assistant Registrar (CS-III)

/TRUE COPY/

Sub Assistant Registrar

To

1. THE JUDICIAL MAGISTRATE, ARUPPUKOTTAI.
 2. THE PRINCIPAL SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR.
 3. THE INSPECTOR OF POLICE, M. REDDIAPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
 4. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
 5. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI
- +1 CC to M/s. G.M. LAW OFFICE, Advocate (SR-76191[F] dated 19/07/2019

Cr1.A(MD) No.191 of 2010
18.07.2019

AM/13.08.2019/3P/7C