



BAIL SLIP

Mr.Muthaiah s/o Ponnaiyah aged about 66 years was released on bail vide order dated 23.08.2010 in MP(MD)No.1 of 2010 in CRL.A(MD) No.230 of 2010.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL A (MD) No.230 of 2010

Muthaiah

... Appellant / Accused No.1

Vs.

State, rep.by the Inspector of Police,
Ilayangudi Police Station,
Sivagangai District.

... Respondent / Complainant

(Crime No.345/2005)

Prayer : This Criminal Appeal is filled under Section 374 of Criminal Procedure Code, to set aside the order passed by the Sessions Judge, Sivagangai in S.C No.88 of 2006 dated 23.06.2010.

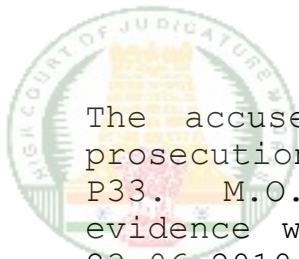
For Appellant : Mr.V.Kannan

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

JUDGMENT

The appellant and four others were tried for the following offences by the learned Sessions Judge, Sivagangai :

Accused No.1	Under Sections 364, 365, 302 and 201 IPC
Accused No.2	Under Sections 365, 302 and 302 r/w 109 IPC
Accused No.3	Under Sections 365, 302 and 201 IPC
Accused No.4	Under Sections 365 IPC
Accused No.5	Under Sections 118 and 201 IPC



The accused pleaded not guilty and claimed to be tried. The prosecution examined as many as 22 witnesses and marked Exs.P1 to P33. M.O.1 to M.O.6 were marked. On the side of the accused, no evidence was adduced. The learned Trial Judge by judgment dated 23.06.2010 acquitted the first accused of the offences under Sections 364, 365, 302 IPC. The second accused was acquitted of the offence under Sections 365, 302 and 302 r/w 109 IPC. The third accused was acquitted of the offences under Sections 365, 302 and 201 IPC. The fourth accused was acquitted of the offences under Sections 365 IPC and fifth accused was acquitted of the offence under Sections 118 and 201 IPC. However, the appellant was convicted for the offence under Section 201 IPC and sentenced to undergo five years rigorous imprisonment of five years and also levied with a fine of Rs.500/-, in default, to undergo six months. Challenging the same, this appeal has been filed.

2.The deceased Nallammal was none other than the mother of A2 Eswari who is the wife of the appellant Muthaiah. A3 and A4 are the friends of A1. The case of the prosecution is that there was a property claim and that was the reason for the commission of the offence of murder of Nallammal. The prosecution would allege that the body of Nallammal after her death was interred in the Pooja room of the Muthumayil. But, the charge itself is that Muthumayil was threatened and criminally intimidated and that is why the charge against A5 was only under Section 118 of IPC. The fact remains that the prosecution did not file any appeal challenging the acquittal portion of the impugned judgment.

3.The occurrence dates back to the year 2005 and the impugned judgment was passed in June 2010. Therefore, I am of the view that even though I feel deeply disturbed by the manner in which the charges were framed and the judgment was rendered, no purpose will be served in issuing any *suo motu* notice to the other four accused. The learned counsel for the appellant also submits that having regard to the evidence on record, he would not question the finding of guilt of the appellant under Section 201 IPC and that he would be satisfied if some leniency is shown in the matter of punishment. The appellant is now aged about 75 years.

4.Therefore, I am of the view that interest of justice will be served by reducing and modifying the sentence of imprisonment from five years rigorous imprisonment to two years rigorous imprisonment. Accordingly, it is modified and the fine amount imposed on the appellant is confirmed. The sentence of imprisonment alone is modified. The appellant is said to have in prison for about six months. It shall of course be set off in terms of Section 428 of Cr.PC. The learned counsel for the appellant submitted that the appellant would surrender before the trial court to serve the remaining period of sentence. The trial court shall take steps to enforce this order.



5. With this modification in the matter of sentence, this criminal appeal is partly allowed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar

To

1. The Judicial Magistrate, Ilayangudi.

2. The Chief Judicial Magistrate, Sivagangai.

3. The Sessions Judge, Sivagangai.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

5. The Inspector of Police, Ilayangudi Police Station,
Sivagangai District.

6. The Superintendent, Central Prison, Trichy.

COPY TO:

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

+1 CC to M/s.V.KANNAN, Advocate (SR-75343[F] dated 16/07/2019)

CRL A (MD) No.230 of 2010
15.07.2019

skm

MS/18.09.2019/3P.10C