



Bail Slip

The Appellant/Accused namely Murugan @ Pykkara Murugan @ Sothaipal Murugan @ Loadman Murugan @ Sivamurugan, aged about 28 years S/o.Maharaja, was released on bail as per order of this Court dated 15.12.2010 and made in MP(MD)No.3 of 2010 in CrI A(MD)No.324 of 2010 on the file of this Court.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.A(MD)No.324 of 2010

Murugan @ Pykkara Murugan @
Sothaipal Murugan @ Loadman
Murugan @ Sivamurugan

... Appellant/Accused No.3

Vs

The State represented by
Inspector of Police,
B11, Karimedu Police Station,
Madurai.
Crime No.3292 of 2004

... Respondent/Complainant

PRAYER: Criminal Appeal is filed under Section 374 of Cr.P.C., to set aside the Judgment dated 10.04.2008 made in S.C.No.13 of 2007 on the file of the Additional District and Sessions Judge, Fast Track Court No.11, Madurai and allow this appeal.

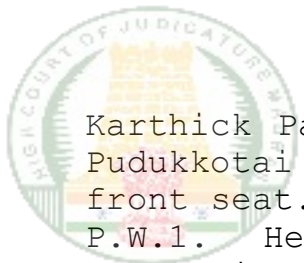
For Appellant : Mr.A.Jeyaram

For Respondent : Mrs.S.Bharathi
Government Advocate (CrI.side)

JUDGMENT

The appellant herein was convicted for the offences under Sections 367 and 392 of IPC and sentenced to nine years rigorous imprisonment and levied with fine of Rs.15,000/- vide Judgment dated 10.04.2008 in S.C.No.13 of 2007 on the file of the Additional District and Sessions Judge Cum Fast Track Court No.II, Madurai.

2.The case of the prosecution is that the appellant along with two others had abducted P.W.1-Selvaraj and took away the call taxi driven by him. On 10.12.2004 at about 02.00 p.m., Vaigai call taxi received a call that taxi is required for hire. There upon, the taxi bearing registration No.TN59 D 9776 driven by P.W.1 Selvaraj went to bye pass road near the Nivas Hosptial Madurai. Al Raja got into the call taxi. After a while, one

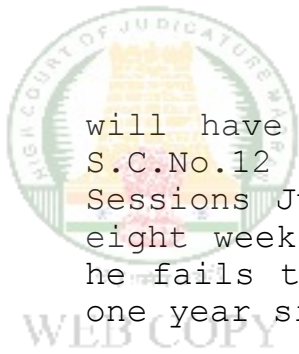


Karthick Pandian and the appellant herein also got in at Nagamalai Pudukkotai bus stop. A1 Raja was sitting next to P.W.1 in the front seat. A2 and A3 are said to have thrown a sack on the face of P.W.1. He was made to consume an intoxicating drink. P.W.1 went unconscious. When he woke up, he was found on the road side near Ottanchathiram. His call taxi had been taken away by the accused. P.W.1 informed his owners and Ex.P1 complaint was lodged before the B11, Karimedu Police Station. Crime No.3293 of 2004 (Ex.P11) was registered for the offence under Sections 392 of IPC. Investigation was taken up and the three accused were arrested and the car was also recovered. Final report was filed before the Judicial Magistrate No.5, Madurai for the offences under Sections 367 and 392 of IPC against the three accused. The case was committed to the Sessions Court in P.R.C.No.93 of 2005. It was made over to the Fast Track Court No.2, Madurai in S.C.No.13 of 2007. Charges were framed against the three accused in respect of the said offence. The accused denied the charges and claimed to be tried. The prosecution examined 15 witnesses and marked Ex.P1 to Ex.P28. M.O.1 to M.O3 were also marked. M.O.1 is the Maruthi Mini Vehicle driven by P.W.1. On the side of the accused, no evidence was adduced. The learned trial Judge, by Judgment dated 10.04.2008, found all the three accused guilty of the offence with which they were charged and sentenced them to nine years rigorous imprisonment. Questioning the same, this appeal has been filed by the third accused. It is said that the other two accused filed independent appeals and that they were dismissed.

3.The evidence of P.W.1 inspires the confidence of this Court and the Court below rightly held that the prosecution had established its case against the accused beyond reasonable doubt. This is all the more so because M.O.1-Maruthi Van was recovered.

4.Having regard to the evidence on record, the appellant's counsel submitted that he would not challenge the conviction and that he would be satisfied, if leniency is shown in the matter of punishment. Even after the registration of this case, the appellant was involved in two cases of theft. But then, the fact remains that for the last full thirteen years, the appellant has not come under the adverse notice of the police. The appellant has since settled in his life. He is married and he is having two daughters. The appellant is eking out his livelihood in a Match Factory at Sivakasi. It is also seen that the appellant was in prison for almost 3 ½ years. In fact, the appellant got bail only after he had spent about 27 months post Judgment.

5.Taking note of the period of incarceration already undergone by him and the other mitigating aspects, I am of the view that the interest of justice will be served by confirming the conviction but modifying and reducing the sentence of imprisonment to the period already undergone by him. Of-course, the appellant



will have to pay a fine amount of Rs.15,000/- to the credit of S.C.No.12 of 2007 on the file of the Additional District and Sessions Judge, Fast Track Court No.II, Madurai, within a period of eight weeks from the date of receipt of a copy of this order. If he fails to do so, he will have to undergo the default sentence of one year simple imprisonment.

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

Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Additional District and Sessions Judge,
Fast Track Court No.11, Madurai.
- 2.The Principal Sessions Judge, Madurai.
- 3.The Judicial Magistrate No.V, Madurai.
- 4.The Chief Judicial Magistrate, Madurai.
- 5.The Superintendent, Central Prison, Madurai.
- 6.The Inspector of Police, B11, Karimedu Police Station,
Madurai.
- 7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to: The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr.A.Jeyaram, Advoate, SR.No.78760.

Cr1.A(MD)No.324 of 2010
31.07.2019

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