



Bail Slip

The Appellant/Accused No.2 namely Nallamohamed, S/o.Natharmohamed, was released on bail by this Hon'ble Court made in MP(MD)No.2/10 in CRL A (MD)No.482 of 2010 dated 21.12.2010.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL A (MD)No.482 of 2010

Nallamohamed

... Appellant /Accused No.2

Vs.

State, through the Inspector of Police,
Erukkankudi Police Station,
Virudhunagar District.

... Respondent / Complainant

(Crime No.102 of 2008)

Prayer : This Criminal Appeal is filed under Section 374 of Criminal Procedure Code, to call for the records connected with the judgment dated 22.12.2009 in S.C No.181 of 2008 on the file of the Principal Sessions Judge, Virudhunagar at Srivilliputhur and set aside the same and acquit the appellant/2nd Accused.

For Appellant : Mr.R.Alagumani

For Respondent : Mr.A.Robinson,

Government Advocate (crl.side)

JUDGMENT

The appellant was convicted and sentenced to undergo five years rigorous imprisonment for the offence under Section 304 (ii) IPC vide judgment dated 22.12.2009 in S.C No.181 of 2008 on the file of the Principal Sessions Judge, Virudhunagar at Srivilliputhur. Challenging the same, this appeal came to be filed.

2.It is seen that the deceased was none other than the husband of the elder sister of the appellant. The occurrence had taken place on 09.08.2008 at about 07.45 A.M. Due to sudden quarrel, the appellant had hit the deceased with M.O.1 stick. Due to the injury suffered in the occurrence, the deceased died later. In this regard, Crime No.102 of 2008 was registered on the file of the Irukkankudi Police Station, based on the Ex.P1 complaint lodged by P.W.1 who is none other than the elder sister of the appellant herein. The prosecution came out with a case that the father of the appellant caught hold of the deceased while the



appellant herein attacked him with a wooden log. Investigation was undertaken and final report came to be filed before the Judicial Magistrate No.2, Sathur. It was committed to the Sessions Court in S.C No.102 of 2008 on the file of the Principal Sessions Judge, Virudhunagar at Srivilliputhur. The accused denied the charges and claimed to be tried. The prosecution examined as many as 11 witnesses and marked Exs.P1 to P20. MO.1 to MO.4 were also marked. On the side of the accused, no evidence was adduced. The learned Trial Judge after a detailed consideration of the evidence on record, acquitted the first accused while finding the appellant herein guilty of the charge under Section 304(ii) IPC. Challenging the conviction and sentence, this appeal came to be filed.

3.Heard the learned counsel on either side.

4.The learned counsel appearing for the appellant submitted that the deceased had picked up a quarrel with the father of the appellant and attacked him and feeling provoked, the appellant gathered a stick that was lying nearby and hit the deceased and that he had no intention to cause his death. The appellant's counsel however submitted that having regard to the evidence on record, he would not challenge the finding of guilt and he would be satisfied if some leniency is shown in the matter of punishment.

5.P.W.1 the elder sister of the appellant/accused appeared before me in person. P.W.1 is an elderly woman and she stated before me that she is being taken care of only by the appellant/accused. The appellant had spent about 1 year and 2 months in prison. The appellant does not have even a petty case to his credit either before or after the occurrence. Taking note of the mitigating circumstances obtaining in this case, even while sustaining the conviction and fine imposed on the appellant, the sentence of imprisonment is modified and reduced to the period already undergone by him. The bail bond executed by the appellant shall stand cancelled.

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

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



To

1.The Inspector of Police, Erukkankudi Police Station,
Virudhunagar District.

2.The Principal Sessions Judge, Virudhunagar at Srivilliputhur.

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

+1 cc to Mr.R.Alagumani , Advocate SR.No.75325

CRL A (MD) No.482 of 2010

12.07.2019

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