



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.A(MD)No.271 of 2013

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Shanmugam

... Appellant / Sole Accused
Vs

State represented by
Inspector of Police,
Seithunganallur Police Station,
Thoothukudi District.
In Crime No.331 of 2010.

... Respondent / Complainant

PRAYER: Criminal Appeal is filed under Section 374 of Cr.P.C., to call for the records in S.C.No.284 of 2012 on the file of the 1st Additional District and Sessions Court, Thoothukudi and set aside the conviction and sentence passed by the 1st Additional District and Sessions Court, Thoothukudi on 01.08.2013 in S.C.No.284 of 2012 and allow this Criminal Appeal.

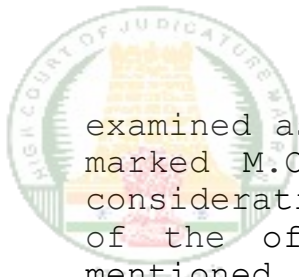
For Appellant : Mr.A.Muthu Esakki

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

JUDGMENT

The appellant was convicted for the offence under Section 307 of IPC and sentenced to undergo three years rigorous imprisonment and levied with fine of Rs.10,000/-, vide Judgment dated 01.08.2013 in S.C.No.284 of 2012 on the file of the First Additional District and Sessions Judge, Thoothukudi.

2.The case of the prosecution is that on 18.12.2010 at about 8.30 a.m., the appellant/accused abused the defacto complainant, when he was standing in his field and also inflicted multiple cut injuries on his head by M.O.1-Aruval. In this regard, the defacto complainant lodged Ex.P1-complaint before the Seithunganallur Police Station, leading to registration of Ex.P6-FIR, in Crime No.331 of 2010 for the offence under Sections 294(b) and 307 of IPC. Investigation was undertaken and final report came to be filed before the Judicial Magistrate, Srivaigundam against the appellant for the offences under Sections 294(b) and 307 of IPC. Cognizance of the offences was taken and the case was committed to the Sessions Court in P.R.C.No.45 of 2012. It was made over to the Additional District and Sessions Judge, Thoothukudi, for trial in S.C.No.284 of 2012. Charges for both the offences were framed. The appellant pleaded not guilty and claimed to be tried. The prosecution



examined as many as 10 witnesses and marked Ex.P1 to Ex.P8 and also marked M.O.1-Aruval. The learned trial Judge, after a detailed consideration of the evidence on record, found the appellant guilty of the offence under Section 307 of IPC and sentenced him as mentioned above. Challenging the same, this appeal came to be filed.

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3. When the matter was taken up for disposal, the learned counsel appearing for the appellant submitted that having regard to the evidence on record, he would not challenge the finding of guilt and that, he would be satisfied, if leniency is shown in the matter of sentence.

4. In this case, the injured victim namely Kombaiyathevar was examined as P.W.1. He lodged a complaint immediately after the occurrence. The medical evidence supports the case of the prosecution. P.W.1-Kombaiyathevar was in hospital for about 12 days. He had suffered grievous injuries on his head. The appellant's counsel submitted that the appellant is a poor agriculturist and that, he is now aged about 38 years and that he has got two female children. Almost nine years have gone by after the occurrence took place. The appellant undertakes to deposit a sum of Rs.20,000/- more as compensation to the credit of S.C.No.284 of 2012 on the file of the First Additional District and Sessions Court, Thoothukudi. The said amount can be paid as compensation to the victim. The appellant also undertakes to execute an affidavit conveying his apology to the victim expressing his sense of remorse and regret for having caused the occurrence.

5. Taking note of these mitigating factors, even while sustaining the conviction imposed by the Court below, the sentence of imprisonment is modified and reduced to the period already undergone by the appellant. The appellant is however directed to deposit a sum of Rs.20,000/- more to the credit of S.C.No.284 of 2012 on the file of the First Additional District and Sessions Court, Thoothukudi, within a period of eight weeks from the date of receipt of a copy of this order. The said amount shall be handed over by the trial Court as compensation to the victim along with the affidavit of apology to be executed by the appellant. If the appellant fails to do so, the sentence of imprisonment imposed by the Court below shall stand automatically restored. This criminal appeal stands partly allowed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)



To

1.The Additional District and Sessions Court,
Thoothukudi

2.The Inspector of Police,
Seithunganallur Police Station,
Thoothukudi District.

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

+1 CC to M/s.MUTHU ESAKKI, Advocate (SR-82732[F] dated 21/08/2019)

CrI.A(MD)No.271 of 2013
21.08.2019

sma/17/12/19/3p/5c