



Bail Slip

The Appellant namely Suresh Kumar, S/O. Jeyakumar was released on bail as per order of this court dated 20.01.2013 made in MP(MD)No.1 / 2013 in Crl.A(MD)No.316 / 2013.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.A(MD)No.316 of 2013

Suresh Kumar @ Chokkan

... Appellant

Vs

The State of Tamil Nadu,
Represented by the Inspector of Police,
Sathankulam Police Station,
Thoothukudi District.

... Respondent

PRAYER: Criminal Appeal is filed under Section 374 of Cr.P.C., to set aside the Judgment and Conviction passed by the learned 2nd Additional Sessions Judge, Thoothukudi passed in S.C.No.157 of 2013, dated 04.10.2013.

For Appellant : Mr.R.Balakrishnan

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 five years rigorous imprisonment and levied with fine of Rs.2,000/-, vide Judgment dated 04.10.2013 in S.C.No.157 of 2013 on the file of the Second Additional Sessions Judge, Thoothukudi.

2.The prosecution case is that on 23.12.2012 at about 09.15 p.m., there was a wordy quarrel between the appellant and his friend Subramanian on the one side and Ayyadurai on the other. During the

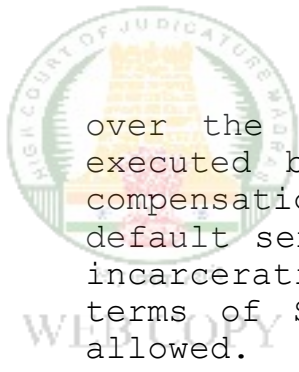


occurrence, the appellant attacked Ayyadurai with M.O.1-Aruval. As a result, Ayyadurai suffered injuries on his body and his left thumb got cut off. In this regard, the brother of the victim-P.W.1 lodged Ex.P1 complaint before the Sathankulam Police Station. Ex.P4-FIR in Crime No.400 of 2012 was registered for the offences under Sections 294(b), 326 and 307 of IPC. Investigation was undertaken and final report came to be filed against the appellant and one Samuel Antonyraj before the Judicial Magistrate, Sathankulam for the offences under Sections 294(b) and 307 of IPC. The case was committed to the Sessions Court in P.R.C.No.15 of 2013. It was made over to the Second Additional Sessions Judge, Thoothukudi in S.C.No.157 of 2013. Charges were framed against the two accused under the aforesaid provisions. The accused pleaded not guilty and claimed to be tried. The prosecution examined as many as nine witnesses and marked Ex.P1 to Ex.P8. M.O.1 to M.O.3 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 second accused but convicted and sentenced the appellant as mentioned above. Challenging the same, this appeal came to be filed.

3.The prosecution had examined Ayyadurai as P.W.2. The injuries spoken to by him have been corroborated by the medical evidence also. Ex.P2 is the wound certificate. The appellant was arrested. Based on his confession, M.O.1-Bill Hook which was used to hack the victim, was also recovered. Ex.P7 is the admissible portion of the confession statement.

4.Having regard to the evidence on record, the learned counsel appearing for the appellant submitted that he would not question the finding of guilt and that he would be satisfied, if leniency is shown in the matter of punishment. He offered to pay a sum of Rs.1,00,000/- as compensation to the victim Ayyadurai. The appellant had also spent about 50 days in prison. The appellant is now aged about 28 years. The appellant is not having any other case. He has not come under adverse notice of the police subsequently.

5.Taking note of all these mitigating factors and recording the undertaking of the appellant to pay the compensation amount to the victim, the sentence of imprisonment is reduced from five years to six months rigorous imprisonment. The appellant is directed to deposit a sum of Rs.1,00,000/- to the credit of S.C.No.157 of 2013 on the file of the Second Additional Sessions Judge, Thoothukudi, within a period of four weeks from the date of receipt of a copy of this order. Upon such deposit, the same shall be handed over to the victim Ayyadurai/P.W.2. The appellant will also execute the affidavit of apology expressing his regret and remorse for having caused such grievous injury to the victim. The Court below, while disbursing the compensation amount to the victim, shall also hand



over the copy of the affidavit of apology to the victim to be executed by the accused. If the appellant fails to deposit the compensation as undertaken before me, he will have to undergo the default sentence of 18 months rigorous imprisonment. The period of incarceration already undergone by the appellant will be set off in terms of Section 428 of Cr.P.C. This criminal appeal is partly allowed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

- 1.The Inspector of Police,
Sathankulam Police Station,
Thoothukudi District.
 - 2.The Second Additional Sessions Judge, Thoothukudi.
 - 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +2 CC to M/s.R.BALAKRISHNAN, Advocate (SR-82043)

CrI.A(MD)No.316 of 2013
14.08.2019

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