



BAIL SLIP

Madasamy, S/o.Diriviam, 1st Accused was released on bail by the order of this Court dated 06.11.2013 made in MP(MD)No.1/2013 in Crl.A(MD)No.322 of 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.322 of 2013

Madasamy

... Appellant / Deceased

Vs

State rep. by
Inspector of Police,
Kulasekarapattinam Police Station,
Tuticorin District.

...Respondent/ Complainant

PRAYER: Criminal Appeal is filed under Section 374 of Cr.P.C., to call for the records in Sessions Case No.76 of 2013 on the file of the learned First Additional Sessions Judge, Tuticorin and allow this appeal and set aside the conviction and sentence passed by the learned First Additional Session Judge, Tuticorin in Session Case No.76 of 2013, in order dated 01.10.2013.

For Appellant : Mr.M.Gokul

For Respondent : Mr.A.Robinson

Government Advocate (Crl.side)

JUDGMENT

The appellant was convicted for the offence under Section 307 of IPC and sentenced to five years rigorous imprisonment, vide Judgment dated 01.10.2013 in S.C.No.76 of 2013 on the file of the First Additional Sessions Judge, Thoothukudi.

2.The prosecution case is that on 27.09.2010, at about 12.00 noon, the accused namely Madasamy and Valampuri picked up quarrel with one Jeya Ananthan. During the said quarrel, the appellant hacked Jeya Ananthan with M.O.1 Aruval and caused him grievous injury on his left elbow. In this regard, Jeya Ananthan lodged Ex.P1 Complaint before the Kulasekarapattinam Police Station leading to registration of Ex.P6-FIR in Crime No.165 of 2010 for the offences under Sections 294(b), 307 and 506(ii) of IPC. Investigation was taken up and final report came to be laid against both the accused before the Judicial Magistrate, Thiruchendure for the offences under Sections 294(b), 307 and 506(ii) of IPC. The case was committed to the Sessions Court in P.R.C.No.20 of 2012. It was made over to the First Additional and Sessions Judge, Thoothukudi in S.C.No.76 of 2013. Charges were framed against both the accused under the aforesaid three provisions. The accused



pleaded not guilty to the charges and claimed to be tried. The prosecution examined twelve witnesses and marked Ex.P1 to Ex.P7. The Court below, after a detailed consideration of the evidence on record, by the impugned Judgment, acquitted the second accused, but convicted and sentenced the appellant as mentioned above. Challenging the same, this appeal came to be filed.

3. When the matter was taken up for hearing, 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 only plead for substantial modification and reduction in the matter of punishment. He set out quite a few mitigating factors. He agreed to pay a further sum of Rs.10,000/- as compensation to the victim.

4. Taking note of these mitigating factors pleaded by the appellant's counsel, even while sustaining the conviction imposed on the appellant by the Court below, I reduce the sentence of imprisonment from five years rigorous imprisonment to three months rigorous imprisonment. The appellant is directed to deposit a sum of Rs.10,000/- to the credit of S.C.No.76 of 2013 on the file of the First Additional Sessions Judge, Tuticorin, within a period of eight weeks from the date of receipt of a copy of this order. While depositing the compensation amount, the appellant shall also execute the affidavit of apology expressing his sense of regret and remorse to the victim for having caused injury to him. The learned trial Court, while disbursing the compensation amount now to be deposited by the appellant to the victim, shall also hand over the copy of the affidavit of apology to be executed by the appellant to the victim. If the appellant fails to deposit the compensation amount, he will undergo the default sentence of one year rigorous imprisonment. The period of incarceration already undergone by the appellant will be set off in terms of Section 428 of Cr.P.C.

5. With this modification in the matter of sentence and with this direction to pay the compensation amount to the victim, the criminal appeal is partly allowed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

rmi

1. THE FIRST ADDITIONAL SESSIONS JUDGE,
TUTICORIN
2. THE DISTRICT SESSIONS JUDGE,
TUTICORIN

<https://hcservices.ecourts.gov.in/hcservices/>



3. THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
TIRUNELVELI
4. THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI
5. THE INSPECTOR OF POLICE,
KULASEKARAPATTINAM POLICE STATION,
TUTICORIN DT
6. THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI
7. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO: THE SECTION OFFICER, CRIMINAL SECTION,
MADURAI BECH OF MADRAS HIGH COURT, MADURAI - 2 COPIES

+1 CC to M/s.K.GOKUL, Advocate (SR-82224[F] dated 19/08/2019)

SMA/30/01/2020/3P/11C

Cr1.A(MD)No.322 of 2013
14.08.2019