

**BAIL SLIP**

Kutty Raja, Male /Aged 28 years/2013 S/o.Pethimuthu Appellant/Accused No.1 was released on bail of this Court order dated 07.03.2013 made in MP(MD)No.1 of 2013 in Crl A(MD)No.80 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.A(MD)No.80 of 2013

Kutty Raja

... Appellant /Accused No.1

Vs

State represented by
The Inspector of Police,
Murappanadu Police Station,
Thoothukudi District.
(Crime No.191 of 2011)

... Respondent/Complainant

PRAYER: Criminal Appeal is filed under Section 374 of Cr.P.C., to call for the records in S.C.No.204 of 2012 on the file of the learned 1st Additional District and Sessions Judge, Thoothukudi, Thoothukudi District and set aside the Judgment dated 04.01.2013 and acquit the appellant/A1.

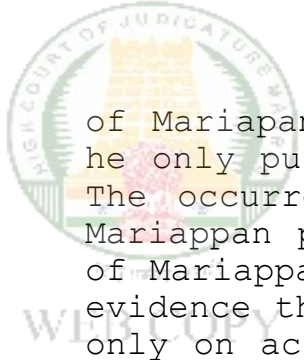
For Appellant : Mr.A.Thiruvadikumar

For Respondent : Mr.A.Robinson
Government Advocate (Crl.side)

JUDGMENT

The appellant was tried along with two others for the offences under Sections 294(b), 302 and 506(ii) of IPC and 302 r/w 24 of IPC in S.C.No.204 of 2012 on the file of the First Additional District and Sessions Judge, Thoothukudi. The learned trial Judge, vide Judgment dated 04.01.2013 acquitted the other two accused and convicted the appellant for the offence under Section 325 of IPC and sentenced him to undergo five years rigorous imprisonment. Questioning the same, this appeal has been filed.

2.When the matter was taken up for hearing, the learned counsel appearing for the appellant submitted that he would not challenge the finding of guilt and only plead for modification and reduction of sentence. He pointed out that there was scuffle following the teasing of A2's daughter by P.W.2-Rajesh The deceased Mariapan was the grand father of P.W.2. He had intervened and during the quarrel, the appellant is said to have caused injury on the head



of Mariapan with stick. Of-course, the appellant would claim that he only pushed Mariapan and that is how, he sustained head injury. The occurrence had taken place on 18.06.2011 at about 06.00 p.m. Mariappan passed away on 02.08.2011 at 12.00 p.m. Thus, the death of Mariappan took place after 50 days. It emerges from the medical evidence that the death of Mariapan was not due to head injury, but only on account of pneumonia. Pneumonia occurs on account of lung infection. Therefore, the appellant's counsel would submit that the causing of injury on Mariapan by the appellant was not the cause of eventual death. That is why, the Court below rightly acquitted the accused for the offence under Section 302 of IPC but found him guilty only for the offence under Section 325 of IPC. The appellant is said to be a poor agricultural coolie. He has a child aged about twelve years. The appellant has already spent about 190 days in prison. Therefore, I am of the view that even while sustaining the conviction imposed on the appellant, the period of imprisonment can be modified and reduced to the period already undergone.

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

Sd/-

Assistant Registrar ()

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/ /2020

Sub Assistant Registrar(CS)

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To

1. The First Additional District and Sessions Judge,
Thoothukudi, Thoothukudi District.
2. The Judicial Magistrate, Srivaikundam.
- 3.-Do- Thro The Chief Judicial Magistrate, Thoothukudi.
4. The Inspector of Police,
Murappanadu Police Station,
Thoothukudi District.
5. The Superintendent, Central Prison, Palayamkottai.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai

+1 CC to Mr.A.THIRUVADI KUMAR, Advocate (SR-78585[F] dated 30/07/2019)