



Bail Slip

The Appellant/Accused viz Selvaraj S/o.Kumara Goundar, was released on bail granted as per order dated 04.02.2015 made in MP (MD)1 of 2015 in Crl.A(MD)No.22 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:14.08.2019

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Crl.A(MD)No.22 of 2015

Selvaraj : Appellant/Sole Accused

Vs.

State represented by
The Inspector of Police,
Chinthamanipatti Police Station,
Karur District.
(Crime No.176 of 2012)

: Respondent/ Complainant

Prayer: Criminal Appeal has been filed under Section 374(2) of Criminal Procedure Code, against the judgment, dated 19.12.2014 passed in SC No.,.2 of 2014 on the file of the Sessions Judge/Mahalir Neethimandram, Fast Track Court, Karur.

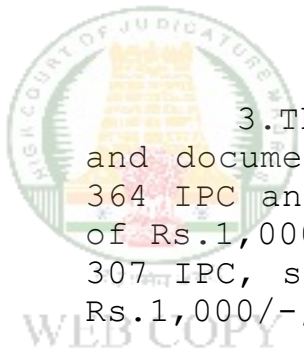
For Appellant : Mr.A.Thiruvadikumar

For Respondent : Mr.R.Anandha Raj
Additional Public Prosecutor

J U D G M E N T

This criminal appeal is directed against the judgment, dated 19.12.2014 passed in SC No.2 of 2014 on the file of the Sessions Judge/Mahalir Neethimandram, Fast Track Court, Karur.

2.The case of the prosecution is that on 15.11.2012 at 10.00 am, while PW1 along with her son-in-law was taking the victim in a two wheeler to the hospital, the appellant/accused had waylaid them en-route and in the guise of taking the victim to the hospital, the appellant/accused had abducted the victim and thereafter, near Thanneerpanthal Medu, the appellant/accused dropped the victim from the vehicle and had caused injuries upon her hands and leg with a stone, as she had failed to dispose the properties in his favour.



3.The trial court, on appreciation of the evidence, both and documentary, found the appellant/accused guilty under Section 364 IPC and sentenced him to undergo 7 years RI and to pay a fine of Rs.1,000/-, in default to undergo 3 months SI and under Section 307 IPC, sentenced him to undergo 7 years RI and to pay a fine of Rs.1,000/-, in default to undergo 3 months SI.

4.Feeing aggrieved by the judgment of the trial court, the appellant/accused is before this court.

5.Heard both sides and perused the materials available on record.

6.It is mainly argued on the side of the appellant/accused that the dispute is between the mother and son and subsequent to the conviction, the parties have arrived at an amicable settlement among themselves and that PW8/Mariyayee is residing in a joint family with the appellant/accused and PW1/Chandra also does not dispute the same.

7.It is further submitted that the compromise arrived at between the parties is voluntary and on their own accord and in the event of the appellant/accused being send to jail, much prejudice would be caused to the entire family and the victim/PW8 would also be put to much mental strain. In support of his contention, the learned counsel for the appellant/accused submitted the decision reported in (2007)2 MLJ (Crl) 70 (Raju and another Vs. Inspector of Police, New Hope Police Station). In that case, it has been held as follows:-

"It is well settled that while awarding sentence the effect of compromise can be taken into consideration. It has been stated that the appellant has remained in custody for a period of 14 months and there is no allegation that he assaulted the deceased."

8.In AIR 2009 SC 675 (Ishwar Singh Vs. State of Madhaya Pradesh), it has been held as follows:-

"13.Now, it cannot be gainsaid that an offence punishable under Section 307 IPC is not a compoundable offence. Section 320 of the Code of Criminal Procedure, 1973 expressly states that no offence shall be compounded if it is not compoundable under the Code. At the same time, however, while dealing with such matters, this Court may take into account a relevant and important consideration about compromise between the parties for the purpose of reduction of



sentence.

14. In *Jetha Ram Vs. State of Rajasthan*, (2006) 9 SCC 255, *Mrugesan & Ors. V. Ganapathy Velar*, (2001) 10 SCC 504 and *Ishwarlal V. State of M.P.*, JT 1988(3) SC 366(1), this Court, while taking into account the fact compromise between the parties, reduced sentence imposed on the appellant-accused to already undergone, though the offences were not compoundable. But it was also stated that in *Mahesh Chand V. State of Rajasthan*, AIR 1988 SC 2111, such offence was ordered to be compounded.

15. In our considered opinion, it would not be appropriate to order compounding of an offence not compoundable under the Code ignoring and keeping aside statutory provisions. In our judgment, however, limited submission of the learned counsel for the appellant deserves consideration that while imposing substantive sentence, the factum of compromise between the parties is indeed a relevant circumstance which, the Court may keep in mind."

9. Further, in the judgment reported in **2012 CRL.LJ.667** (*Culab Das and others Vs. State of M.P.*), the Hon'ble Apex Court as follows:-

8. Having said that we are of the view that the settlement/compromise arrived at between the parties can be taken into consideration for the purpose of determining the quantum of sentence to be awarded to the appellants. That is precisely the approach which this Court has adopted in the cases referred to above. Even when the prayer for composition has been declined this Court has in the two cases mentioned above taken the fact of settlement between the parties into consideration while dealing with the question of sentence. Apart from the fact that a settlement has taken place between the parties, there are few other circumstances that persuade us to interfere on the question of sentence awarded to the appellants. The incident in question had taken place in the year 1994. The parties are related to each other. Both Appellant nos. 2 and 3 were at the time of the incident in their twenties. It is also noteworthy that the incident had led to registration of a cross case against the complainant party in which the



trial Court has already convicted Veeraji and others for offences punishable under Sections 325/34 and 323 IPC and sentenced them to undergo imprisonment for a period of two years and a fine of Rs.300/- and imprisonment of six months under Section 323 IPC. We are told that the parties having settled the matter, will approach the High Court for an appropriate order in the appeal pending before it. More so, the appellants have already served substantial part of the sentence awarded to them.

10.Keeping in mind the above citations and the settlement arrived at between the parties as well as taking into account for determining the quantum of sentence and the accused served substantive part of sentence, it is held that the sentence imposed on the accused is reduced the sentence to the period already undergone.

11.Accordingly, this Criminal Appeal is **partly allowed**, by reducing the sentence awarded to the appellant to the sentence already undergone by him. In respect of fine amount, the findings of the trial court is confirmed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Sessions Judge/Mahalir Neethimandam,
Fast Track Mahila Court, Karur.

2.The Judicial Magistrate No.I
Kulithalai, Karur District

3.The Chief Judicial Magistrate
Karur

4.The Inspector of Police
Chinthamanipatti Police Station,
Karur District



5.The Superintendent, Central Prison
Tiruchirapalli

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

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Madurai Bench of Madras High Court,
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+1 CC to M/s.A.THIRUVADIKUMAR, Advocate (SR-81661[F] dated
14/08/2019)

Judgment made in
Crl.A(MD)No.22 of 2015
14.08.2019

KM/(27.11.2019) 5P 10C