



Bail Slip

Petitioner/Appellant/Accused No.1 viz., Murugan @ Karikadai Murugan, was already released on bail vide this Court order dated 04.02.2013, and made in MP(MD).No.1 of 2013 in Crl.A.(MD).No.29 of 2013.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

Crl.A(MD).No.29 of 2013

Murugan @ Karikadai Murugan : Appellant/ Accused No.1

Vs.

The State Represented by
The Inspector of Police,
Kovilpatti West Police Station,
Tuticorin District.
(Crime No.731 of 2010)

: Respondent / Complainant

PRAYER : Criminal Appeal filed under Section 374 of Cr.P.C, to set aside the Judgment passed by the I Additional District and Sessions Judge, Tuticorin, Tuticorin District in S.C.No.166 of 2012, dated 09.01.2013.

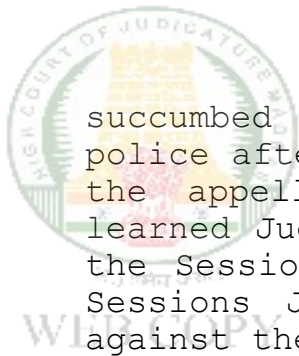
For Appellant : Mr.V.Kathirvelu
Senior Counsel
for Mrs.S.Ragaventhre

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

JUDGMENT

The appellant was convicted for the offences under Section 304(1) of IPC and also 324 of IPC and sentenced to undergo 7 years R.I. and one year R.I. respectively. Fine of Rs.1,500/- was also imposed in all.

2.The case of the prosecution is that on 25.07.2010 at about 5.30 p.m., a petty quarrel arose between A.1 and A.2. During the quarrel, the accused are said to have hacked the deceased on various spots of his body with aruval. According to the prosecution, a juvenile boy was also involved in the occurrence. Chelladurai



succumbed to the injuries on 03.08.2010 at about 10.50 a.m. The police after conducting an investigation, filed final report against the appellant and the second accused Karuthapandi, before the learned Judicial Magistrate, Kovilpatti. The case was committed to the Sessions Court and made over to the I Additional District and Sessions Judge as S.C.No.166 of 2012. The charges were framed against the accused as follows:-

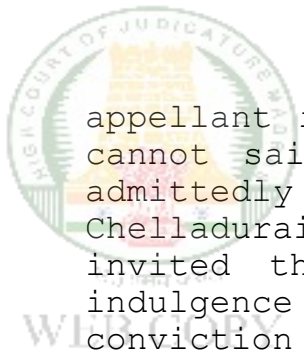
"Charges 1 (Accused No.1 and 2)	: U/s.294(B) IPC
Charges 2 (Accused No.1 and 2)	: U/s.302 IPC
Charges 3(Accused No.1)	: U/s.324 IPC"

3.The accused denied the charges and claimed to be tried. The prosecution examined 17 witnesses and marked Exs.P.1 to P.28. M.O.1 to M.O.4 were also marked. On the side of the accused, Ex.D.1 alone was marked.

4.The learned Trial Judge, after a detailed consideration and evidence on record, by Judgment dated 09.01.2013, acquitted the second accused, but convicted the appellant/first accused and sentenced him as mentioned above. Challenging the same, this appeal came to be filed.

5.The case of the prosecution is that following the occurrence that took place on 25.07.2010 at 5.30 p.m, the injured Chelladurai was rushed to Government Hospital, Kovilpatti and intimation to the police was given and they recorded his statement on the same day at 06.30 p.m., at Government Hospital, Kovilpatti. FIR in Crime No.731 of 2010 was also registered at 07.45 p.m. The complaint reached the Court on the very next day i.e., on 26.07.2010. It is true that the said Chelladurai died on 03.08.2010. But then, the death of Chelladurai is directly attributable to the injuries sustained by him on 25.07.2010. Therefore, the First Information Report was altered and it is relevant to mention here that on the very next day of the occurrence, i.e., on 26.07.2010, the appellant herein was arrested and he gave a confession before the police. The admissible portion of the confession given by the appellant/ first accused was marked as Ex.P.24. Pursuant to the confession made by the accused/appellant herein, M.O.1-aruvai was also recovered. The Trial Court has held that the prosecution established beyond reasonable doubt the involvement of the appellant herein. This because, the deceased Chelladurai gave a statement immediately after the occurrence directly implicating the appellant.

6.The learned Senior counsel appearing for the appellant rightly did not challenge the conviction imposed on the appellant, he would only pray for modification and reduction of the sentence. The learned Senior counsel pointed out that even according to the statement of the deceased Chelladurai, he abused the appellant. The



appellant is a villager and therefore, the possession of an aruval cannot said to be an incriminating circumstance. The appellant admittedly did not have any prior design to cause the death of Chelladurai. It was only the offending utterance by Chelladurai that invited the whole trouble. Therefore, I am inclined to show indulgence to the appellant. Therefore, even while sustaining the conviction imposed on the appellant, sentence of imprisonment is reduced from 7 years R.I. to 3 years R.I. The period of incarceration already undergone by the appellant will stand set off in terms of Section 428 of Cr.P.C. Accordingly, the Criminal Appeal stands partly allowed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar(CS)

sjj

To

- 1.The I Additional District and Sessions Judge,
Tuticorin, Tuticorin District.
- 2.The Principal District and Sessions Judge, Tuticorin.
- 3.The Judicial Magistrate No.II, Kovilpatti.
- 4.The Chief Judicial Magistrate, Tuticorin.
- 5.The Superintendent, Central Prison, Palayamkottai.
- 6.The Inspector of Police, Kovilpatti West Police Station,
Tuticorin District.
- 7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to:

The Record Keeper, V.R. Section, (2 Copies)
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.K.PRABHU, Advocate (SR-79671[F] dated 05/08/2019)

Crl.A(MD) .No.29 of 2013
02.08.2019

JMN(19.12.2019) 3P : 11C