



BAIL SLIP

The Appellant/Accused viz. Balu @ Balamurugan S/o. Radhakrishnan was released on bail (Accused not in Jail) as per order of this Court dated 09.08.2011 made in MP(MD).1 of 2011 in CRL RC (MD) No.538 of 2011.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C (MD) No.538 of 2011

Balur @ Balamurugan ... Petitioner/Appellant/Accused

Vs

State represented by,
The Inspector of Police,
Thanjavur West Police Station,
In Cr.No.580 of 2009,
Tirunelveli District.

... Respondent/Respondent/Complainant

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining in C.A.No.55 of 2010 dated 26.05.2011 on the file of the learned Additional District and Sessions Court/ E.C.Act Special Court, Thanjavur confirming the Judgment of the learned Additional Assistant Sessions Court, Thanjavur in S.C.No.238 of 2009, dated 29.06.2010 by allowing this revision.

For Petitioners : Mr.P.Gokulnaath
(Legal Aid Counsel)

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

ORDER

The petitioner was the sole accused in S.C.No.238 of 2009 on the file of the Additional Assistant Sessions Judge, Thanjavur, for the offence under Section 307 of IPC. The case of the prosecution is that the petitioner slit the throat of P.W.1 Meena on 23.07.2009 at about 08.00 a.m., In this regard, complaint-Ex.P1 was lodged by P.W.1. Ex.P7-FIR in Crime No.580 of 2009 was registered on the file of the Inspector of Police, Thanjavur West Police Station. Investigation was undertaken and final report was filed in P.R.C.No.13 of 2009 before the Judicial Magistrate No.I, Thanjavur. The case was committed to Sessions Court and made over to Additional Assistant Sessions Judge, Thanjavur in S.C.No.238 of 2009. The petitioner pleaded not guilty to the charge and claimed



to be tried. In support of the prosecution, as many as 12 witnesses were examined and Ex.P1 to Ex.P9 were marked. M.O.1-Knife was also marked. On the side of the accused, no evidence was adduced. The learned trial Judge, by Judgment dated 29.06.2010, found the petitioner guilty of the offence under Section 307 of IPC and sentenced him to seven years rigorous imprisonment and also levied a sum of Rs.2000/- as fine. Aggrieved by the same, the petitioner filed Criminal Appeal No.55 of 2010 before the Additional District and Sessions Court (EC Act), Thanajvur. By Judgment dated 26.05.2011, the Appellate Judge dismissed the appeal and confirmed the Judgment passed by the trial Court. Questioning the same, this criminal revision case came to be filed.

2. When the matter was taken up for hearing, there was no representation on the side of the revision petitioner. Therefore, this Court directed the Registry to appoint a Legal Aid Counsel. Today, when the matter was taken for hearing, Mr.P.Gokul naath, learned Legal Aid Counsel appeared and reiterated the contentions set out in the memorandum of grounds. He submitted that the Judgements of the Courts below have not taken note of the contentions urged by the defence and that, therefore, they are liable to be reversed and set aside.

3. Per contra, the learned Government Advocate (Crl.side) wanted this Court to sustain the Judgements passed by the Courts below.

4. After carefully considering the rival contentions and perusing the entire evidence on record, I am of the view that the Judgments of the Courts below do not warrant any interference. This is the case of slitting the throat of a women. P.W.1-Meena was said to had a live in relationship with the petitioner. She was subjected to physical abuse and that is why, she chose to leave him. But the petitioner insisted that P.W.1 should rejoin him. Since she refused on the fateful day, the occurrence in question had taken place. P.W.1-Meena had spoken categorically about the murderous attack perpetrated on her by the petitioner herein. Her testimony has not been shaken at all. She is an injured witnesses. Injury was on a sensitive part on her body. The prosecution had recovered M.O.1 that was used for inflicting the injury on P.W.1. The testimony of P.W.1 have also been duly corroborated by the medical evidence. Therefore, even though the learned Legal Aid Counsel contended that P.W.1 testimony has not been corroborated by the other eye witnesses and that they turned hostile, I am inclined to sustain the Judgments of the Courts below. The petitioner's counsel would now submit that the occurrence had taken place some 10 years ago and that the petitioner has not come under adverse notice thereafter. He therefore pleads for modification of the sentence. He also pointed out that the petitioner was in prison for almost a month.



5. Taking note of all these aspects, I am of the view that interest of justice will be served by sustaining the conviction and reducing the imprisonment imposed on the petitioner from seven years rigorous imprisonment to twelve months rigorous imprisonment. In all other aspects, the Judgments of the Court below stand confirmed. This criminal revision case stands partly allowed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

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To

1. THE ADDITIONAL DISTRICT AND
SESSIONS COURT/E.C.ACT SPECIAL COURT, THANJAVUR.

2. THE ADDITIONAL ASSISTANT
SESSIONS COURT, THANJAVUR.

3. DO THRO THE PRINCIPAL
SESSIONS JUDGE, THANJAVUR.

4. THE JUDICIAL MAGISTRATE
NO.I. THANJAVUR.

5. THE INSPECTOR OF POLICE,
THANJAVUR WEST POLICE STATION, TIRUNELVELI DISTRICT.

6. THE ADDITIONAL PUBLIC
PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

7. THE SECTION OFFICER,
CRIMINAL RECORDS,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI. (2 copies)

+2CC TO MR.P.GOKULNAATH, Advocate Sr. No.72081

Cr1.R.C(MD) No.538 of 2011
28.06.2019

SCR(CO)

TR (21.08.2019) 3P 11C