

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.460 of 2020
and Crl.M.P.No.7115 of 2020

K.Jafarullah
S/o.Khadhar Basha

... Appellant/
Accused No.1

Versus

The State of Tamil Nadu,
Rep by the Inspector of Police,
Tiruppur north Police Station,
Tiruppur.
(Crime No.896/1998)

... Respondent/Complainant

Prayer:

Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, to set aside the conviction and sentence imposed up on the appellant pertaining to the judgment dated 24.09.2019 made in S.C.No.73 of 2014 on the file of the Assistant Sessions Judge, Tiruppur by allowing this Criminal Appeal.

For Appellant : Mr.B.Kumarasamy
For Respondent : Mr.C.Raghavan
Government Advocate (Crl.Side)

JUDGMENT

The appellant is an accused in S.C.No.73 of 2014 on the file of the Assistant Sessions Judge, Tiruppur. The Assistant Sessions Judge, Tiruppur cum Principal Subordinate Court, Tiruppur by its judgment dated 24.09.2018 convicted the petitioner for the offences under Section 489(A), 489(b), 489(C), 489(D) and sentenced to undergo seven years Rigorous Imprisonment.

2.The learned counsel for the petitioner has filed Crl.M.P.No.6223 of 2020 to condone the delay of 538 days in preferring the appeal. This Court by order dated 28.10.2020, condoned the delay and the appeal was numbered as Crl.A.No.460 of 2020. The learned counsel for the petitioner has filed a petition in Crl.M.P.No.7115 of 2020 seeking suspension of

sentence along with the appeal and argued that the petitioner is aged about 67 years and he has surrendered and he is under confinement from 20.02.2020.

3.The learned Government Advocate (Crl.Side) filed his counter dated 07.12.2020. Thereafter on hearing both side arguments the petition filed seeking suspension of sentence in Crl.M.P.No.7115 of 2020 was reserved for orders.

4.On perusal of the Lower Court Judgment it was found that S.C.No.73 of 2014 was tried and the petitioner was convicted by the Assistant Sessions Judge, Tiruppur cum Principal Subordinate Court, Tiruppur by its judgment and sentenced to undergo seven years Rigorous Imprisonment.

5.As per Section 374 (3) of the Cr.P.C., any person convicted on a trial held by a Sessions Judge or an Additional Sessions Judge in which a sentence of imprisonment for more than seven years, may file appeal on the High Court. In this case, the appellant was sentenced to undergo seven years imprisonment. Hence, this appeal ought not to have been filed before this Court. The appeal is to be filed before the principal District and Sessions Judge, Tiruppur. Registry failed to notice the same and numbered the appeal. The learned counsel for the appellant and the learned Government Advocate (Crl. Side) have not brought to the notice of this Court. Hence, this Court allowed the condone delay petition and the entertained the appeal.

6.In view of the same, Registry is directed to return the case papers in Crl.A.No.460 of 2020 including the copy of the judgment of the Lower Court to the learned counsel for the petitioner.

7.The learned counsel for the appellant shall file an appeal before the appropriate Sessions Court within a period of 15 days from the date of receiving the case bundle from the registry. The Principal District and Sessions Court shall entertain the appeal without raising objection on the point of limitation in preferring the appeal.

8.With the above direction, this Criminal Appeal is dismissed. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To:

1. The Assistant Sessions Judge cum
Principal Subordinate Court, Tiruppur
2. The Inspector of Police,
Tiruppur north Police Station,
Tiruppur.
3. The Public Prosecutor,
High Court, Madras.

Copy To

The Section Officer,
Criminal Section,
High Court, Madras-104.

(for carrying out the direction
given by this court)

+1cc to Mr.B.Kumarasamy, Advocate, S.R.No.6

Cr1.A.460 of 2020

EV(CO)
CS/05/01/2021



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