



Bail Slip

B.Palanivel, S/o.Balan, male aged about 35/2015 years (Accused) was released on bail vide Court order dated 24/04/2015 made in MP(MD)No.1 of 2015 in Crl.RC(MD)No.118 of 2015.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 28.02.2020

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Crl.A(MD)No.118 of 2015

Palanivel : Appellant/Accused

Vs.

1.The Inspector of Police,
All Women Police Station,
Srirangam,
Trichy City.
(Crime No.3 of 2014)

2.Vijayalakshmi
(R2 impleaded as per the order
of this court, dated 26.02.2020
made in Crl.MP(MD)No.1923
of 2020 in Crl.A(MD)No.118
of 2015)

: Respondent/Complainant

Prayer: Criminal Appeal filed under section 374 of the Criminal Procedure Code, against the judgment passed by the District and Sessions Judge, Mahila Court, Tiruchirapalli, in S.C.No.102 of 2014, dated 27.02.2015.

For Appellant : Mr.B.Jameel Arasu
For Respondent : Mr.APG Om Chairma Prabhu
No.1 Government Advocate
(Criminal side)

For Respondent
No.2 : Mr.S.Ramakrishnan

J U D G M E N T

This Criminal Appeal is directed against the judgment passed by the District and Sessions Judge, Mahila Court, Tiruchirapalli, in S.C.No.102 of 2014, dated 27.02.2015.

2.According to the prosecution, on 16.02.2014 due to harassment made by the appellant/accused, the deceased committed self-immolation by setting herself by pouring kerosene on her body



and immediately, the appellant/accused took the injured wife to the hospital and after three days, she died. The Inspector of Police, attached to All Women Police Station, Srirangam, Trichy City has filed a final report against the accused examining the witnesses.

3.The trial court, on proper appreciation of the evidence, both oral and documentary convicted the appellant and sentenced him to undergo three years of rigorous imprisonment and imposed a fine of Rs.500/-, in default to undergo one month simple imprisonment for the offence under section 498-A IPC and also sentenced him to undergo 8 years of rigorous imprisonment and imposed a fine of Rs.1,000/-, in default to undergo three months simple imprisonment. Aggrieved by the judgment of the trial court, the appellant is before this court.

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

5.In this case, even though the learned counsel for the appellant/accused argued on merits, but he has stated that at the initiation of the well wishers of both the parties, a compromise was entered into between the accused and PW1 to PW3 and in the interest of the welfare of the children, both the appellant family and victim family compromised all the issues between them and seeks leniency of this court.

6.Further, the learned counsel appearing for the petitioners submitted the decision reported in (2007)2 MLJ (Cr1) 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."

7.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,
<https://hcservices.ecourts.gov.in/hcservices>



(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."

8. 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.

9.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 appellant/accused is reduced the sentence to the period already undergone. It is seen from the records that the appellant/accused was in judicial custody for 96 days.

10.Accordingly, this Criminal Appeal is **partly allowed**, by reducing the sentence awarded to the appellant/accused to the sentence already undergone by him. In respect of fine amount, the findings of the trial court is confirmed. The appellant/accused is directed to deposit a sum of Rs.50,000/- (Rupees Fifty thousand only) as fixed deposit in any one of the nationalised bank in the name of **Gobiga Sri**, the daughter of the deceased.

Post the matter after two weeks for reporting compliance.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate No.III, Trichy

2. The Chief Judicial Magistrate, Trichy

3. The District and Sessions Judge,
Mahila Court, Trichy.

4. The Inspector of Police,
All Women Police Station,
Srirangam, Trichy City.

5. The Superintendent,
Central Prison, Trichy

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

+1 CC to Mr.B.JAMEEL ARASU, Advocate (SR-9894[F] dated 03/03/2020)

Crl.A(MD)No.118 of 2015

28.02.2020