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IN THE HIGH COURT OF JUDICATURE AT MADRAS

THURSDAY THE TWENTY NINETH DAY OF JULY  
TWO THOUSAND AND TWENTY ONE

THE HONOURABLE MR.JUSTICE P.N.PRAKASH  
AND  
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRL.A.NO.492 OF 2018

V.Sakthi Saravanan

Appellant

-vs-

1.Thangavel  
2.Mariamammal  
3.State by  
The Inspector of Police  
Modakkurichi Police Station,  
Erode District  
(Cr.No.112 of 2010)

PRAYER: Criminal Appeal filed under the proviso to section 372 Crpc seeking to call for the records and set aside the Judgment and order of acquittal dated 14.06.2011 made in SC No.124/2010 on the file of the Principal Sessions Judge, Erode.

ORDER:

This Petition coming on for hearing on this day, and upon perusing the petition and the affidavit filed in support thereof on the file of the High Court and upon hearing the arguments of Mr.A.Sundaravadhanan, Advocate for the Appellant and Mr.N.Manokaran Advocate for the Respondents No.1 & 2 for Mr.M.Babu Muthu Meeran Advocate for Respondents No.3, this court made the following order:

Thangavel (A.1) is present today.

2 When he was questioned on sentence, he submitted that he is innocent; he has been framed by the family of the deceased Viswanathan ; he is 68 years old now; he is suffering from various ailments and hence, some leniency may be shown to him.

3 Mr. N. Manokaran, learned counsel for the accused, submitted that Thangavel (A.1's) son-in-law committed suicide and has left his daughter, a widow, to be taken care of by him.

4 We carefully considered the aforesaid submissions of Thangavel (A.1) and Mr. N. Manokaran, learned counsel for the accused.



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5 Thangavel (A.1) appears emaciated and weak. We are of the view that interests of justice would be served if Thangavel (A.1) is sentenced as under and it is ordered accordingly:

| S.No. | Provision of law under which convicted | Sentence                                                                                               |
|-------|----------------------------------------|--------------------------------------------------------------------------------------------------------|
| 1     | Section 304(II) IPC                    | 3 years rigorous imprisonment                                                                          |
| 2     | Section 326 IPC                        | 1 year rigorous imprisonment and fine of Rs.1,000/-, in default to undergo 4 weeks simple imprisonment |

The aforesaid sentences are ordered to run concurrently. Further, Thangavel (A.1) is entitled to set off under Section 428 Cr.P.C.

6 That apart, it is just and necessary that some compensation is awarded to the family of the victim who had lost the breadwinner of their family. Hence, Thangavel (A.1) is directed to pay a compensation of Rs.1 lakh under Section 357(3) Cr.P.C. for causing the death of Viswanathan, punishable under Section 304(II) IPC, by depositing the said sum before the trial Court, in default thereof, to undergo simple imprisonment for a period of one year, in addition to the substantive sentence of imprisonment. On such deposit, the trial Court shall disburse the same to Sakthi Saravanan (P.W.1) or Saraswathi (P.W.2), whoever is alive.

In the result, this criminal appeal is allowed in part in the above terms.

s/d-  
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

To

1.The Judicial Magistrate,  
Erode.

2.The Chief Judicial Magistrate, Erode.



3.The Principal Sessions Judge, Erode.

4.The Director General of Police,  
Mylapore, Chennai.

5.The District Collector,  
Erode.

6.The Superintendent, Central Prison, Puzhal, Chennai.

7.The Inspector of Police, Modakkurichi, Police Station,  
Erode District.

8.The Public Prosecutor,  
High Court, Madras.

Copy to

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

DATED:29/07/2021

ORDER

CRL.A.NO.492 OF 2018

Allowing the Criminal Appeal  
in part etc as stated within

MG (CO)  
KKV/29/07/2021