



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.11.2021

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

Crl.A.No.407 of 2017

Venkatesan

.. Appellant/Accused

Vs.

State rep by
Inspector of Police,
Andimadam Police Station,
Andimadam.

.. Respondent/Complainant

PRAYER : Criminal Appeal has been filed under section 374(2) of Criminal Procedure Code to call for the records in S.C.No.36 of 2013 on the file of the Additional District and Sessions Court cum Chief Judicial Magistrate, Ariyalur to set aside the order of convicting the Appellant to undergo 10 years passed in S.C.No.36 of 2013 dated 03.02.2015.

For appellant : Mr.P.Saravanan

For Respondent : Mr.A.Gopinath
Govt. Advocate (Crl.Side)

JUDGMENT

This Criminal Appeal has been preferred challenging the judgment of the learned Additional District and Sessions Judge cum Chief Judicial Magistrate, Ariyalur in S.C.No.36 of 2013.

2. The accused is the brother of the defacto complainant, who was examined as PW.1. The case of the prosecution is that on 05.02.2012, the accused had an altercation with the complainant in view of some property claim. On the said day at about 12.00 mid night, when PW.1 sleeping was along with her mother PW.2, the accused came to the house and set the house on fire, thereby damaged the valuable property to the tune of Rs.1,50,000/-. On the complaint given by the PW.1, a case was registered in Crime.No.55 of 2012 by Andimadam police for the offence under Section 436 of IPC. After completing the



investigation, the Investigating Officer has filed the charge sheet against the accused under Section 436 of IPC. After the case was taken on file in P.R.C.No.27 of 2013, it was committed to the Sessions Court for trial by observing due legal mandates. The case was assigned to the file of the Additional Sessions Judge cum Chief Judicial Magistrate, Ariyalur for trial. The trial Court framed charges under Section 436 of IPC and questioned the accused. Since the the accused denied his involvement in the crime, the trial was conducted.

3. Before the trial Court, on the side of prosecution, 10 witnesses were examined and 4 documents were marked as Ex.P.1 to Ex.P4. However, on the side of the defence, no witness has been examined and no documents have been marked.

4. After conclusion of the trial and after considering the materials on record, the learned trial Judge has found the accused guilty for the offence under Section 436 of IPC and sentenced him to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.5,000/-; in default to undergo Simple Imprisonment for 6 months. Aggrieved over that, the accused has preferred this Criminal Appeal.

5. The learned counsel for the appellant admitted the fairness of the finding of the Courts below, but his only endeavour is to get a reduction of punishment.

6. Taking into consideration of the settlement of the dispute between the accused and his sister / PW.1-defacto complainant/Ambiga and the affidavit filed in this regard and also considering the fact that the accused has already undergone 6 ½ years of Rigorous Imprisonment, I feel some lenience may be shown in the punishment. Despite the matter was compromised, the offence under which the accused was convicted falls under the category of non compoundable offence. It is not compoundable even with the permission of the Court.

7. In such circumstances, taking into consideration of the future harmony that should prevail in the family of the defacto complainant and the accused and also to prevent any further offence. It is appropriate to consider the present circumstances in order to reduce the punishment. The accused had almost undergone 2/3rd of the sentence passed by the learned Sessions Judge.



8. In view of that, this appeal is partly allowed and the judgment of the Sessions Court is modified to the extent that the accused is found guilty and sentenced to undergo the punishment of 7 years R.I. Fine already imposed and paid, amount already paid is retained.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rpl

To

- 1.The Additional District and Sessions Judge,
cum Chief Judicial Magistrate,
Ariyalur.
- 2.The Superintendent of Prisons,
Central Prison,
Cuddalore-4.
- 3.The Judicial Magistrate,
Jayamkondam,
Cuddalore District.
- 4.The Inspector of Police,
Andimadam Police Station,
Andimadam, Ariyalur District.
- 5.The Public Prosecutor,
High Court, Madras.
6. The Chief Judicial Magistrate,
Ariyalur.

Copy to:

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

+1cc to Mr.P.Saravanan, Advocate, S.R.No.60823

Cr1.A.No.407 of 2017

NR(CO)
SU(06/12/2021)