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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.A.NO.44 OF 2019

Gajendran

.. Appellants

Vs

State rep. by
The Inspector of Police
C5 Vengal Police Station
Thiruvallur District.
(Crime No.151 of 2015)

.. Respondent

Prayer:

Criminal Appeal filed under Section 374 of CRPC, to set aside the conviction and sentence imposed on the appellant by the learned Assistant District and Sessions Judge, Thiruvallur dated 30.11.2018 in Sessions case No.146 of 2017 and acquit the appellant.

For the Appellant : Mr.V.R.Appaswamee

For the Respondent : S.Vinoth Kumar

Government Advocate (Crl. Side)

ORDER

This appeal is filed aggrieved by the judgment dated 30.11.2018 by the learned Assistant District and Sessions Judge, Thiruvallur in S.C.No.146 of 2017 in and by which, the appellant is convicted for the offence under Section 307 of the IPC and sentenced to undergo seven years rigorous imprisonment and to pay fine of Rs.1,000/- and in default of payment of fine, to undergo six months of simple imprisonment.

2. The case of the prosecution is that on 04.05.2015, at about 07.00 pm, in Kamakkambedu Village, in front of the house of one Ezhumalai, the accused was quarreling with his parents and was trying to attack his own parents. Therefore, one Kumar intervened in the quarrel and enraged by the same, the accused hit him on the head with iron pipe, on account of which, he sustained grievous injury. PW10 investigated this case and filed



charge sheet before the Judicial Magistrate I, Thiruvallur which was taken on file as PRC No.21 of 2014 and after issue of copies under Section 207 of the Code of Criminal Procedure, the case was committed to the Court of Sessions and thereafter, made over to the Trial Court and taken on file as SC No.146 of 2017. Upon the charges being framed under Sections 307, 294(b) and 506(ii) of the IPC, the appellant denied the charges and stood trial. The prosecution examines PW1 to PW10 and Exhibits P1 to P14 marked and produced the iron pipe as MO1. Upon being questioned about the evidence on record and incriminating circumstances under Section 313 of the Code of Criminal Procedure, the appellant denied the same as false. Thereafter, no evidence was let in on behalf of the defense and the Trial Court proceeded to hear the learned Additional Public Prosecutor and learned counsel for the accused and by the judgment dated 30.11.2018, while acquitting the appellant for offences under Sections 294(b) and 506(ii), convicted the appellant for the offence under Section 307 and sentenced him as aforesaid. Aggrieved by the same, the present appeal is filed.

3. Learned counsel for the appellant, though initially argued on merits submitted that the injured victim Kumar though alive at that time, was not even examined and there are several flaws in the investigation, however, in view of the fact that the petitioner is in prison from 30.11.2018, restricted his arguments on the question of sentence alone. He would submit that there was no pre-planning or motive in the incident. There was a quarrel between the family members, in which enraged by the fact that a third party was unnecessarily intervening, in sudden fit of rage, one single blow with the iron pipe was given. Thereafter, it may be seen that the victim was treated as in-patient only for seven days and thereafter he was discharged. The petitioner was 28 years of age as of the time of occurrence. He has since to shown remorse for his conduct and is in prison for a period of three years, six months and twenty one days and before conviction also he was in prison for a period of twenty nine days.

4. Therefore, considering the nature of offense and the young age of the accused, and his subsequent good conduct inside the prison and the fact that one opportunity has to be given for the young offender to reform himself and since he has undergone substantial period of sentence, that is, more than three years and six months, I am of the view that the sentence can be modified as one of the period already undergone and this criminal appeal is partly allowed as follows:

(i). The conviction of the petitioner for the offences under Section 307 of the IPC by the judgment dated 30.11.2018 by the learned Assistant District and Sessions Judge,



Thiruvallur, is confirmed.

(ii). The sentence is modified as the period already undergone and the fine amount of Rs.1,000/- is confirmed

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Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant District and Sessions Judge, Thiruvallur .
2. The Judicial Magistrate II, Thiruvallur.
3. The Chief Judicial Magistrate, Thiruvallur.
4. The The Inspector of Police,
C5 Vengal Police Station,
Thiruvallur District.
5. The Superintendent of Police,
Central Prison, Puzhal.
6. The Public Prosecutor, High Court of Madras.

Copy To

The Record Keeper,
Criminal Section, High Court,
Madras.

Crl.A.No.44 of 2019

BP(CO)
PM/22/06/2022