



Crl.A.No.387 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2023

CORAM:

The Honourable MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.A.No.387 of 2017

A.Ramalingam

... Appellant/Accused

-Vs-

State rep by

The Inspector of Police,
Kuvagam Police Station,
Ariyalur

(Crime No.54 of 2013

... Respondent/Complainant

Prayer:- Criminal Appeal filed under Section 374 of the Criminal Procedure Code, 1973, to set aside the sentence imposed upon by the Appellant by the Fast Track Mahila Court, Ariyalur, in Sessions Case No.12 of 2015 dated 09.04.2015 and allow the appeal.

For Petitioner : Mr.P.Parthi Kannan

For Respondent : Mr.G.V.Kasthuri

Additional Public Prosecutor

JUDGMENT

This Criminal Appeal had been filed to set aside the sentence imposed upon by the Appellant by the Fast Track Mahila Court, Ariyalur, in Sessions Case No.12 of 2015 dated 09.04.2015 and allow the appeal.



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2.The learned Counsel for the Appellant submits that the Appellant is the husband and the victim is the wife. The offence alleged against the Appellant is under Section 307 of IPC. As per the Judgment of the learned Sessions Judge, Fast Track Court, Ariyalur, the Appellant herein was convicted and sentenced to undergo imprisonment for five years and pay a fine of Rs.5,000/-. Considering his age, the learned Sessions Judge had sentenced him to undergo Simple Imprisonment only. The learned Counsel for the Appellant submits that immediately after the Judgment, the Appellant was detained in Prison. Hence, he could not file Appeal in time. Therefore, he filed a Petition for condonation of delay. The Appeal was filed in the year 2017. After about 25 months, he was released on bail. During the period of bail, there was an amicable settlement between the victim and the Accused. The learned Counsel for the Appellant relied on the reported ruling of the Hon'ble Supreme Court in **(2021) 1 SCC 726** in the case of ***Murali Vs. State represented by Inspector of Police with Rajavelu Vs. State Represented by Inspector of Police***. The relevant portion of the judgment is extracted as under:



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“Criminal Procedure Code, 1973 – Section 320 – Amicable settlement/compromise between parties – Relevance of, to reduce quantum of sentence of convicts even in serious non-compoundable offences – Principles reiterated – Held, unequivocal language of S.320(9) explicitly prohibits any compounding except as permitted under S. 320 – Notwithstanding thereto, fact of amicable settlement/compromise between parties can be a relevant factor for purpose of reduction in quantum of sentence of convicts even in serious non-compoundable offence.

12. Given this position of law and the peculiar circumstances arising out of subsequent events, we are of the considered opinion that it is a fit case to take a sympathetic view and reconsider the quantum of sentences awarded to the appellants. We say so because: first, the parties to the dispute have mutually buried their hatchet. The separate affidavit of the victim inspires confidence that the apology has voluntarily been accepted given the efflux of time and owing to the maturity brought about by age. There is no question of the settlement being as a result of any coercion or inducement. Considering that the parties are on friendly terms now and they inhabit the same society, this is a fit case for reduction of sentence.

13. Second, at the time of the incident, the victim was a college student, and both appellants too were no older than 2022 years. The attack was in pursuance of a verbal altercation during a sports match, with there being no previous enmity between the parties. It does raise hope that parties would have grown up and have mended their ways. Indeed, in the present case, fifteen years have elapsed since the incident. The appellants are today in their midthirties and present little chance of committing the same crime.

14. Third, the appellants have no other criminal antecedents, no previous enmity, and today are married and have children. They are the sole bread earners of their family and have significant social obligations to tend to. In such circumstances, it might not serve the interests of society to keep them incarcerated any further.”

3. The learned Counsel for the Appellant submitted that, as per the judgment of the learned Sessions Judge, Fast Track Mahila Court,



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Ariyalur, in S.C.No.12 of 2015 dated 09.07.2015, the Appellant herein as Accused was convicted for the offence under Section 307 of IPC. The victim is none other than the wife of the Appellant and the Complainant is none other than the daughter of the Appellant.

4. Considering the fact that the Appellant as the Accused, stood trial. In the trial before the learned Sessions Judge, Fast Track Mahila Court, Ariyalur, had convicted the Accused imposing sentence of imprisonment of five years and fine of Rs.5,000/-. Aggrieved by the same, this Appeal had been filed by the Accused/husband. Therefore, this Court had directed the learned Counsel for the Appellant to produce the Appellant/Accused before this Court. The Respondent Police was also directed to be present in Court with CD file by order dated 01.09.2023. The case was adjourned to 18.09.2023.

5. The learned Counsel for the Appellant submitted that the Appellant/Accused is unable to walk. Also, he submitted that the



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Appellant/Accused and the victim/wife was present in Court on earlier occasions. The victim/wife alone was present in Court on 01.09.2023. She submitted that she does not want her husband to be imprisoned for five years as she had settled amicably with the Appellant/Accused/husband. She requested this Court to release her husband in the light of the compromise, considering the family circumstances.

6.The Accused/Appellant is the father of the Complainant. The Complainant is the daughter. The victim is the mother of the Complainant. Therefore, even though the learned trial Judge had imposed sentence of imprisonment and fine, this Court, considering the matrimonial relationship between the parties and the parties having compromised, instead of ordering imprisonment, the Accused/Appellant is ordered to be released on probation.

7. In the light of the developments, this Court by order dated 01.09.2023 directed the learned Sessions Judge, Fast Track Mahila Court, Ariyalur, to record the statements of P.W.2, victim/wife, and statement of the



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Appellant/Accused, the husband in S.C.No.12 of 2015 dated 09.07.2015.

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Also, the Inspector of Police, Kuvagam Police Station, Ariyalur, was directed to produce P.W.1, Complainant/daughter of Accused in this case before the learned Sessions Judge, Fast Track Mahila Court, Ariyalur.

8. The learned Sessions Judge, Fast Track Mahila Court, Ariyalur, was directed to record the statements, and certified photostat legible, clean copies of the statements shall be sent to this Court. This is to ensure that the parties are genuine, bona fide parties before this Court. Since the High Court is handicapped in recording the statements of the victim and the Accused. The same may be recorded in the presence of the Inspector of Police, Kuvagam Police Station, Ariyalur. The Inspector of Police, Kuvagam Police Station, Ariyalur, shall also obtain the Identity Cards of the Appellant/Accused, the husband; P.W.1, Complainant/daughter; and P.W.2, victim/wife. The learned Sessions Judge, Fast Track Mahila Court, Ariyalur, was directed to obtain copies of the Identity Cards, either Aadhar Card or Voter ID, from the Appellant/Accused, the husband; P.W.1,



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Complainant/daughter; and P.W.2, victim/wife. The copies of the same are to be retained along with the copies of the original records in S.C.No.12 of 2015 dated 09.07.2015, maintained in the Court of the learned Sessions Judge, Fast Track Mahila Court, Ariyalur.

9. This Court by order dated 01.09.2023 also directed the learned Sessions Judge, Fast Track Mahila Court, Ariyalur to forward to this Court a set of copies of the statements and the Identity Card of Appellant/Accused, the husband; P.W.1, Complainant/daughter; and P.W.2, victim/wife shall be sent to this Court on or before 15.09.2023.

10. In the light of the order dated 01.09.2023, the learned Sessions Judge, Fast Track, Mahila Court, Ariyalur was directed to record the statement of the Appellant/Accused and the Wife/Victim/P.W.2 and daughter/Complainant/P.W.1. Regarding the representation of the learned Counsel for the Appellant/Accused that there had been amicable settlement in the family and the victim does not want her husband to undergo



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imprisonment, the victim herself appeared before this Court on 19.09.2023.

Therefore, the learned Sessions Judge, Fast Track, Mahila Court, Ariyalur was directed to record the statement of the Victim (wife of Accused) and Complainant (daughter of victim and Accused).

11. Accordingly, the learned Sessions Judge, had, on verification of their identity, recorded the statement on verification with the Inspector of Police, Kuvagam Police Station, along with CD file. Accordingly, the learned Sessions Judge, Fast Track, Mahila Court, Ariyalur, after recording the statement of the wife/P.W.2 and daughter/P.W.1 had sent the copies of the statement along with his report.

12. In the light of the ruling cited by the learned Counsel for the Appellant in **(2021) 1 SCC 726** in the case of ***Murali Vs. State represented by Inspector of Police with Rajavelu Vs. State Represented by Inspector of Police***, even though the learned Judge had convicted the Accused for the offence under Section 307 IPC sentencing the Accused to undergo Rigorous



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Imprisonment for five years and fine of Rs.5,000/-, instead of detaining the Accused to undergo five years imprisonment, he is released on probation of good conduct as specified under the Probations of Offenders Act, to afford a chance for the Appellant/Accused to reform. Already the Appellant/Accused had served 25 months imprisonment. Therefore, for the remaining period of sentence of imprisonment, he shall be released on Probation of Offenders Act.

13.The Appellant/Accused is directed to surrender before the learned Sessions Judge, Fast Track Mahila Court, Ariyalur within a period of 15 days from the date of receipt of a copy of this order or from the date of uploading the copy of this order and execute a bond for Rs.10,000/- with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Ariyalur. One of the sureties shall be a blood relative, not the wife (victim) or daughter (complainant). The appellant is warned that if he indulges in any offence or even attacking the wife or daughter, the bail bond executed by him in this case will be cancelled and he



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is to be sent to prison to undergo the remaining period of imprisonment as ordered by the learned Sessions Judge, Fast Track Mahila Court, Ariyalur. Already, he had sent 25 months in Prison. Now, he is ordered to be released on probation on supervision under the Probation of Offenders Act by the Court.

14.The Inspector of Police, Kuvagam Police Station, Ariyalur, shall approach the learned Judicial Magistrate in case there is violation of bond condition as per the Probation of Offenders Act and obtain warrant from the Court of the learned Sessions Judge, Fast Track Mahila Court, Ariyalur, to detain the Accused in prison, if there is violation of probation conditions.

15. In the result, this **Criminal Appeal stands partly allowed.** For the present the Appellant/Accused is released on probation for a period of three years. Already he had spent 25 months in Prison in continuation of the judgment of sentence of imprisonment. Therefore, he is to be released on



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probation for a period of **three years** so that he is reformed during probation.

He has to continuously supervised by the Probation Officer.

16.The learned Sessions Judge, Fast Track Mahila Court, Ariyalur is directed to warn the Accused/Appellant on his appearance and release the Accused on probation under the Probation of Offenders Act, in the light of the order of this Court. The Station House Officer of the Police Station concerned, Kuvagam Police Station, also be present in Court. The copy of the proceedings is to be furnished to the SHO of the Police Station and also to the learned Judicial Magistrate, Jayankondam.

22.09.2023

vsn

NOTE: Issue Order Copy by 26.09.2023



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SATHI KUMAR SUKUMARA KURUP. J.,

VSN

Copy to

1. The Sessions Judge,
Fast Track Mahila Court, Ariyalur,
2. The Judicial Magistrate, Jaynkondam
4. The SHO,
Kuvagam Police Station,
Ariyalur.
5. The Public Prosecutor,
High Court of Madras,
Chennai.

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