



Crl.A.(MD)No.150 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

Crl.A.(MD) No.150 of 2022

Murali

.. Petitioner/Accused

Vs.

1.The State represented by,
The Inspector of Police,
Athanakkottai Police Station,
Pudukottai District.

.. Respondent/ Respondent

2.Divya

.. 2nd Respondent

[R2 is impleaded as per the order of the Court dated 21.04.2023 in Crl.M.P(MD)No.6533/2023 in Cr.A(MD)No.150 of 2022]

PRAYER : Criminal Appeal is filed under Section 374(2) of Criminal Procedure Code, to call for the records relating to the judgment passed in S.C.No.94 of 2019, dated 09.02.2022 by the learned Principal District and Sessions Judge, Pudukottai and set aside the same and acquit the appellant/accused from the charges levelled against him.



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For Petitioner : Mr.B.Jeyakumar
For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor for R1

: Mr.Paranjothi for R2

ORDER

This Criminal Appeal has been filed by the appellant challenging the judgment dated 09.02.2022 passed in S.C.No.94 of 2019 passed by the learned Principal District and Sessions Judge, Pudukkottai .

2.The case of the prosecution is that A2 is the uncle (father's elder brother) of the defacto complainant/Divya and A1/appellant herein is the son of A2. The said Divya had lived and studied at Pudukkottai and during the vacation period, she went to the house of A2 and used to stay there. At that time, she had developed love affair with one Naveen/PW.5 which was not liked by the Accused. According to the prosecution, PW.1/ Divya and PW.5/Naveen got married, which was not liked by the accused. Though the said marriage was accepted by the other family members, the



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accused had a grudge against PW.1 and PW.5 and in fact A1/Murali and his brother had earlier threatened the couples for which the complaint was lodged and the same was closed as the accused undertook not to interfere in the life of PW.1 and PW.5. It is the further case of the prosecution that on 06.07.2017 at about 11.35 a.m, while PW.1 and PW.5 were returning back in the Two Wheeler HERO Duet bearing Registration No.TN-55-AP-8122 after worshipping at Muneeswarar Temple, Athanakkottai, and when they were near the residence of one Kalyani, the accused, who had come in a BOLERO Car bearing Registration No.TN-31-BT-8404 dashed against the Two Wheeler with the intention to commit the murder of PW.1 and PW.5, but they sustained injuries. It is the further case of the prosecution that the accused had yelled to do away them and also uttered the words “.... காரை ஏற்றிக் கொலை செய்ய சொன்னால் லேசான காயத்துடன் தப்பித்துவிட்டார்களே”. On the complaint lodged by PW. 1, FIR was registered in Crime No.82 of 2017 for the offences punishable under Sections 341, 294(b) & 307 IPC, against the accused, which was marked as Ex.P.5. After completion of investigation, the first respondent police filed the charge sheet against the accused. The same was taken on file in S.C.No.94 of 2019, by the learned Principal District and Sessions



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Judge, Pudukkottai.

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3. Before the trial Court, in order to prove the guilt of the accused, the prosecution had examined thirteen witnesses as P.W.1 to P.W. 13 and marked nine exhibits as Ex.P.1 to P9. The Accused / appellant herein denied the incriminating evidence against him and did not choose to lead any evidence on his behalf.

4. During the course of trial, the second accused had died. Hence, the charges as against him stood abated.

5. The trial Court framed the charges against A1/appellant herein for the offences under Sections 341, 294(b) and 307 IPC. After an elaborate trial, the appellant was found guilty and convicted for the offence under Sections 341 and 307 IPC and sentenced to undergo one month Rigorous Imprisonment for the offence under Section 341 IPC and to undergo seven years Rigorous Imprisonment and to pay a fine of Rs.20,000/-, in default, to undergo 18 months Rigorous Imprisonment for the offence under Section 307 IPC. But the trial Court acquitted A1 for the offence under



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Sections 294(b) IPC.

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6. Aggrieved over the said conviction and sentence, the first accused/appellant has preferred the present criminal appeal.

7. The contention of the appellant is that based on the complaint lodged by the defacto complainant, the 1st respondent registered the First Information Report in Crime No.82 of 2017 for the offences punishable under Sections 341, 294(b) & 307 IPC, against the appellant. The appellant and the defacto complainant are close relatives and hailing from same village. The 2nd respondent/defacto complainant is none other than cousin sister of the appellant and she had also spent her vacation time at the house of the appellant. Because of her love marriage with PW5, there is some misunderstanding arose between the accused and the defacto complainant and her husband, though the other family members accepted their marriage. The dispute evolved in view of the trivial issues among them. The occurrence was said to be taken place not in a pre-determined manner and it was happened in a spur of moment in a heat of passion. The de-facto complainant has also lodged a complaint in her anger mood and she had no



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intention to take any revenge against the appellant. It is purely a dispute among the close relatives.

8. It is the further contention of the learned counsel for the appellant that as it is a dispute among the close relatives, the appellant and the de-facto complainant along with her husband Navin, who sustained injury entered into compromise with a view to have good relationship among them and also for their future peaceful life. Therefore, a memo of compromise is filed before this Court for compounding the above offence was filed, which has been duly signed by the appellant and the 2nd respondent and also by their respective counsels. He further submitted that the appellant has been incarcerated for more than three months.

9. The appellant and the 2nd respondent appeared in person before this Court along with their counsels and also produced their Aadhar cards. They were also identified by the learned Additional Public Prosecutor and the Investigation Officer. Both the parties were enquired by me and they accepted the terms of compromise. In view of the amicable settlement arrived at between the parties, the memo of Compromise, dated



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28.11.2023 filed by them is hereby recorded.

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10. Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor appearing for the State would submit that the evidence of PW.1 is fully corroborated by the evidence of her husband PW.5/Naveen, who had also sustained injuries. It would be further pertinent to note that in addition to the evidence of the injured, the evidence of PW.2/ Vivekananthan an Eye Witness to the occurrence is also crucial. PW.2 would clearly deposed that the occurrence did not seem to be an Accident rather, it was an intentional act on the part of the Accused. The same is the stand of PW.1 and PW.5 as well. It would be pertinent to note the Wound Certificate/Ex.P.4 which substantiate the factum of injury sustained by PW.5 in addition to the fact that it is recorded in Ex.P.4 that they were hit by a Car while riding in a Two-wheeler. The nature of injury is being categorized as Grievous Injury. The evidence of PW.1, PW.2 and PW.5 is very much consistent and clear. PW.5 would depose about the fact that in view of the injuries sustained by him he had taken treatment at Devadoss Hospital, Madurai and had fixed plate in his leg and was in continuous treatment for 3 months. (It would be vital to note that in this regard the Prosecution has not produced the



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Medical Records). The evidence of PW.10/Dr. Rajesh Kumar, would be that there was a fracture in the 2nd and 3rd fingers on the right leg of PW.5 and he had categorized the same as 'Grievous Injury'. In view of the evidence of PW.1, PW.2, PW.5 and the evidence of PW.10/Dr.Rajesh Kumar, the prosecution was successful in proving the charges levelled against the Accused. The evidence of injured witness stands in the high pedestal and the same cannot be rejected simply. But he has no objection to compound the said offence since the parties have arrived at a compromise and filed a joint compromise memo before this Court.

11. I have heard the learned counsels appearing on either side as well as the parties, who appeared before this Court.

12. On perusal of the records, it is seen that the evidence adduced by the prosecution had clearly proved the charges. The evidence of injured witness stands on a high pedestal and the same cannot be rejected. Further, there is no major contradiction or discrepancy to doubt the presence of the occurrence. The evidence of PWs.1, 2 and 5 were consistent and cogent with regard to the presence of accused and the victim at the scene of the



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alleged offence and accused dashed against the victim and the defacto complainant by his car and caused injuries on them, when they were riding in their two wheeler. In view of the aforesaid discussion, this Court is of the view that the trial Court has rightly convicted the appellant / A1 and there is no illegalities or infirmities in the order passed by the trial Court. Hence, this Court finds no reason to interfere with the same.

13. However, taking note of the compromise filed by the parties, to compound the offence, the question that arises for decision is whether permission to compromise can be granted in a non-compoundable offence of Section 307 of IPC. As such, it is not possible to record the compromise but it is well settled proposition that though compromise cannot be recorded for a non-compoundable offence, the effect of compromise can be taken into consideration while awarding the sentence. The appellant has been in custody for a period of more than three months. In my opinion, the ends of justice would be secured if the sentence of imprisonment awarded against the appellant is reduced to the period already undergone.

14. In view of the foregoing discussions, this Court is of the



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view that the appellant has already suffered imprisonment for some time and on account of this protracted litigation at different stages, he has also suffered a lot of financial hardship and mental agony. He was also released on bail in the year 2022 by this Court. Therefore, the ends of justice will be met, if he is not required to suffer further imprisonment to serve out the sentence passed against him and the sentence of imprisonment should be reduced to the period already undergone by him in the special facts of the case.

15. The Criminal Appeal is disposed of accordingly. No Costs. The bail bond, if any, will stand discharged. The memo of compromise shall form part and parcel of this order.

06.02.2024

Index : Yes/No
Internet : Yes/No
NCC : Yes / No

PJL



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Copy to:

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The Principal District and Sessions Judge, Pudukottai.

To

1.The Inspector of Police,
Athanakkottai Police Station,
Pudukottai District.

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



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VIVEK KUMAR SINGH, J.

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