

CrL.R.C.(MD)No.332 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CrL.R.C.(MD)No.332 of 2022

and

CrL.M.P.(MD)No.3178 of 2025

Thirupathi

... Petitioner

-VS-

The Inspector of Police,
Pettai Police Station,
Tirunelveli District.
(Crime No.204 of 2010)

... Respondent

PRAYER : Criminal Review Case filed under 397 r/w. 401 of Cr.P.C., to call for the records pertaining to the C.A.No.26 of 2015 on the file of the learned 1st Additional District and Sessions Judge, Tirunelveli, dated 07.11.2017 in S.C.No.140 of 2011 on the file of the learned Additional Assistant Sessions Judge, Tirunelveli and set aside the judgment dated 09.03.2015.

For Petitioner : Mr.R.Alagumani
For Respondent : Mr.M.Sakthi Kumar,
Government Advocate (CrL.)

ORDER

Challenging the judgment of the learned 1st Additional District and Sessions Judge, Tirunelveli, in C.A.No.26 of 2015 dated 07.11.2017, confirming the conviction and sentence passed by the learned Additional



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Assistant Sessions Judge, Tirunelveli, in S.C.No.140 of 2011 dated 09.03.2015, this Criminal Revision Case is filed.

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Case of the Prosecution:-

2.The defacto complainant, Muthukumar, had a prior relationship with the accused's sister, Essakkiammal, which gave rise to enmity between Muthukumar and the revision petitioner/accused. Even after Muthukumar's wife left home for childbirth, he continued the relationship with the accused's sister. On 04.06.2010, at about 04.00 p.m., while Muthukumar was conversing with his wife, Jeeva (P.W.2), and his sister, Viramal (P.W.3), near the municipal bus stand when the accused allegedly attacked him with a weapon resembling a machete (arval), causing multiple cut injuries, threatened his wife and sister, and fled the scene. P.W.1's left-hand middle and ring fingers were severed in the attack. The respondent police registered FIR in Crime No.204 of 2010 for offences under Sections 294(b), 324, 326, 307 and 34 of IPC. Eighteen prosecution witnesses were examined and nine exhibits (Ex.P1 to Ex.P9) were marked and one material object (the weapon) was marked. P.W.1 (Muthukumar) identified seven cut injuries and P.W.15 (Dr.Shyam Sundar) examined him at about 05.30 p.m., on the same day and classified injuries nos.4 and 6 as grievous, opining that but for defense, they could have been fatal. After trial, the learned Trial Court convicted the accused under Sections 326 and 307 IPC, sentencing him to seven years rigorous imprisonment and imposing a fine

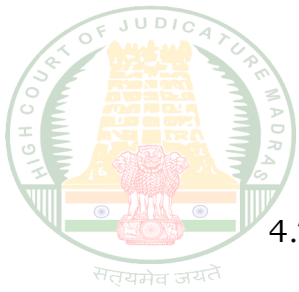


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of Rs.1,000/-, in default to undergo three months simple imprisonment.

Against which, the Criminal Appeal in C.A.No.26 of 2015 is filed before the learned I Additional District and Sessions Judge, Tirunelveli.

3.The appellant contended, *inter alia*, that the fine imposed was exorbitant and unrelated witnesses had turned hostile. Contradictions in the place and nature of the weapon used and absence of any radiology report to establish grievous injury. The learned 1st Additional District and Sessions Judge, by judgment dated 07.11.2017, held that minor discrepancies as to place of occurrence and weapon ('knife' vs. 'arval') were not fatal, given the material object and consistent testimony as to its characteristics and observed that Sections 326 and 307 of IPC are cognate offences and a single assault could not support convictions under Section 216 of Cr.P.C., and the appellate Court should have dropped Section 326 charge. Accordingly, the appellate Court set aside the conviction under Section 326 of IPC and sustained the conviction under Section 307 of IPC. Noting mitigation (provocation by the victim's alleged rape of the accused's sister, itself pending trial), reduced the sentence for Section 307 of IPC to two years rigorous imprisonment. Imposed a fine of Rs.2,50,000/-, in default three years simple imprisonment, directing that the amount be paid as compensation under Section 357(1) of Cr.P.C., to P.W.1. Challenging the same, the present Criminal Revision Case is filed.



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4.The revision petitioner challenges the fine, contending that the amount is excessive, especially given his meagre means. Most witnesses were related and independent witnesses turned hostile and the Courts below failed to appreciate these factors when fixing Rs.2,50,000/- as compensation.

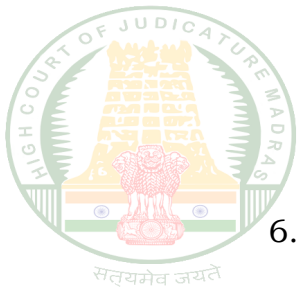
5.Heard the learned counsel on both sides and carefully perused the materials available on record.

Points for Determination:-

- (i)Whether the first Appellate Court erred in imposing Rs.2,50,000/- as fine/compensation ?
- (ii)Whether any other infirmity vitiates the appellate judgment ?

Analysis:-

6.1.**Quantum of Compensation** - Section 357(1) of Cr.P.C., empowers the Court to order payment of compensation in lieu of or in addition to a fine, having regard to the injury and the accused's financial capacity. Here, the attack resulted in permanent loss of two fingers, a grievous impairment affecting P.W.1's livelihood as an auto rickshaw driver. In similar cases, involving loss of digits, compensation ranging from Rs.1 lakh to Rs.3 lakhs has been upheld.

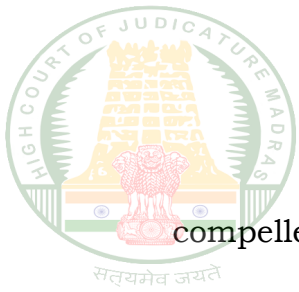


6.2.Related Witnesses and Hostiles - Though some relatives turned hostile, independent medical evidence (P.W.15) corroborates grievous nature of injuries. Credibility of witnesses is a matter of fact, and both Courts have found the prosecution case satisfactorily proved.

6.3.Discretionary Exercise - The appellate Court applied relevant precedents (e.g., ***State of Punjab v. Prem Saagar*** reported in **2008 7 SCC 550**) when moderating sentence. Its exercise of discretion in quantifying compensation is neither arbitrary nor manifestly excessive. But the petitioner/appellant has already undergone rigorous imprisonment for a period of 3 years 10 months and 14 days including remand period. Thus, he has completed the modified sentence of two years, however, due to his inability to pay the fine, he is further detained for a period of one year 10 months 16 days towards satisfying the default clause of the sentence.

Conclusion:-

7.The ultimatum of a criminal trial is to pronounce a judgment on sentence in case of convicting an accused. The Criminal Procedure Code, 1973, by its provisions under Sections 235(2), 248(2), 325, 360 and 361 laid down the mandates as to the various relevant social and psychological factors, which must be taken into consideration by the Courts in awarding the sentence. The judicious exercise of such discretion would compel the Court to judge the mental state of accused and the circumstances, which



compelled him to indulge in crime. Imposition of punishment is a tool for deterrence.

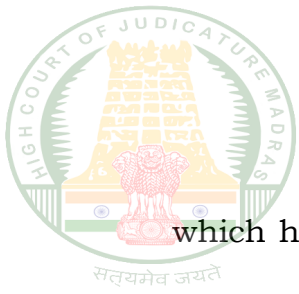
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8.The petitioner/appellant pressed up by his mental condition disturbed by the rape of his sister committed upon her by the defacto complainant, happened to come in conflict with law, when his provocation lingered him to the extent of attacking the offender who raped his sister. An unusual situation in life compelled him to act against the offender who raped his sister, compelling him to become an offender himself in derangement. The Hon'ble Supreme Court in ***Shailesh Jasvantbhai and another v. State of Gujarat and Others¹***, in para no.7 has held as follows:-

“7..... Fried man in his “Law in Changing Society” stated that: “State of criminal law continues to be – as it should be a decisive reflection of social consciousness of Society”. Therefore, in operating the sentencing system, law should adopt the corrective machinery or deterrence based on factual matrix. By deft modulation, sentencing process be stern where it should be, and tempered with mercy where it warrants to be”

9.Fully fortified by the above judgment, mercifully grasping the mitigating circumstances under which the petitioner/appellant fell in conflict with law, considering the admitted case of rape of the petitioner's sister by the defacto complainant and considering the financial distress

¹ 2006 (2) SCC 359



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which has become inevitable in the unexpected instances of his life which has prevented the petitioner from paying fine and set himself free, taking note of the fact that he has been detained for 3 years 10 months and 14 days, I am inclined to set aside the fine imposed by the learned 1st Additional District Sessions Judge, Tirunelveli, in CrL.A.No.26 of 2015 dated 07.11.2017.

10.Accordingly, the Criminal Revision Case is partly allowed. The judgment of the First Additional District and Sessions Judge in Criminal Appeal No.26 of 2015 dated 07.11.2017 is partly modified, setting aside the fine imposed on the petitioner/appellant. No Costs. Consequently, connected miscellaneous petition is closed.

16.07.2025

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



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To

- 1.The III Additional District and Sessions Judge,
Thanjavur @ Pattukkottai.
- 2.The Judge, Fast Track Court (Magisterial Level), Pattukkottai.
- 3.The Inspector of Police,
Vattathikkottai Police Station,
Thanjavur District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Mrn

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