

D;Criminal Appeal No(s). 153/2013 etc.

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REVISED

ITEM NO.103

COURT NO.8

SECTION IIA

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Criminal Appeal No(s). 153/2013

RAMAN @ RAMASAMY

APPELLANT(S)

VERSUS

STATE OF T.NADU

RESPONDENT(S)

WITH

CrI.A. No. 172/2013

(With Office Report)

Date : 31/08/2016 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE V. GOPALA GOWDA

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

For Appellant(s) Mr. N. Rajaraman, Adv.

For Respondent(s) Mr. Subramonium Prasad, Sr. Adv.

Mr. M. Yogesh Kanna, AOR

Ms. Nithya, Adv.

UPON hearing the counsel the Court made the following

O R D E R

While Criminal Appeal No.153 of 2013 is partly allowed,
Criminal Appeal No.172 of 2013 is dismissed in terms of the Signed
Order.

Pending application(s), if any, stands disposed of.

(RASHI GUPTA)

SR. P. A. (SUMAN JAIN)

COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

Criminal Appeal No(s). 153/2013 etc.

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For Appellant(s) Mr. N. Rajaraman, Adv.

For Respondent(s) Mr. Subramonium Prasad, Sr. Adv.

Mr. M. Yogesh Kanna, AOR

Ms. Nithya, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Appeal is dismissed in terms of the Signed Order.

Pending application(s), if any, stands disposed of.

(RASHI GUPTA)

SR. P. A. (SUMAN JAIN)

COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

Criminal Appeal No(s). 153/2013 etc.

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IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 153 OF 2013

RAMAN @ RAMASAMY

APPELLANT

VERSUS

STATE OF T.NADU

RESPONDENT

WITH

CRIMINAL APPEAL NO. 153 OF 2013

Heard learned counsel for the parties.

The concurrent finding of fact recorded on the charge by the first appellate court, namely, the High Court of Judicature at Madras is under challenge in this appeal questioning the correctness of the same, urging various legal contentions.

Learned counsel Mr. M. Yogesh Kanna appearing on behalf of the appellant invited our attention to the impugned judgment with reference to the evidence of PW-2 and PW-3. PW-2 is injured eye-witness.

Learned counsel for the appellant also invited our attention to the FIR and the wound certificate and contended that the appellant herein has also sustained grievous injury on the back side of the head. In this connection, an FIR was lodged with the jurisdictional police which was registered and, thereafter, it was closed by the police.

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Learned counsel for the appellant submits that having regard to the grievous injuries sustained by appellant at the time of occurrence, that should have been properly explained by the prosecution for consideration of the courts below. The appellant has exercised his private defence that would fall in the explanation of Section 304 Part-I of IPC. The concurrent finding of the fact recorded by the High Court on the charge against the appellant, the grievous injuries sustained by him has not been considered by it while imposing the sentence upon him. Having regard to the above fact situation, the appellant ought to have been charged under Section 304 part I of IPC and not under Section 302 of IPC. Accordingly, we have modified the charge framed against the appellant from Section 302 of IPC to Section 304 Part-I of IPC.

Since the prosecution has failed to explain the injuries sustained by the appellant, the High Court ought to have considered this aspect of the case to find out how the grievous injuries were sustained by the appellant. After careful consideration of this important aspect of the matter by us and having regard to the fact that appellant has used his private defence and sustained grievous injuries, the contention urged on behalf of the appellant that charge under Section 302 of IPC is not correct, the offence would fall under the provisions of Section 304 Part-I of IPC. In our considered opinion, the sentence should have been imposed under Section 304 Part-I of

Criminal Appeal No(s). 153/2013 etc.

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IPC. The submission made in this regard by the learned counsel for the appellant is tenable and, therefore, the same is accepted. It is brought to our notice that he has already undergone sentence of eight years. Having regard to the fact that the appellant had stated that he is aged about 70 years as of now and, therefore, it will be just and proper for this Court to reduce the sentence from life imprisonment to eight years, the period of sentence undergone, holding that the appellant is guilty of the charge under Section 304 Part-I of IPC.

With the aforesaid modification of the charge and the sentence imposed upon the appellant, having regard to the facts and circumstances of this case, it would be just and proper for this court to direct the appellant to pay Rs.1,00,000/- (Rupees One Lac) as compensation to the wife and son of the deceased. We order accordingly.

If Rs.1,00,000/- (Rupees One Lac) is not paid within eight weeks' time from today, the appellant shall undergo default sentence for a further period of one year.

The appeal is partly allowed in the aforesaid terms.

CRIMINAL APPEAL NO. 172 OF 2013:

This appeal filed by 'Moorthy' does not have merit and

the judgment and order passed by the High Court is on proper

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evaluation of evidence on record, therefore, we do not find any
good reason to interfere with the concurrent finding recorded
by the High Court on the charge.

In the result, the appeal fails and is hereby dismissed.

.....J.

(V. GOPALA GOWDA)

.....J.

(ADARSH KUMAR GOEL)

NEW DELHI,

AUGUST 31, 2016.