

BAIL SLIP

The Accused, Viz., Rasu @ Raghunathan having been directed to release on bail as per order of this Court dated 13.12.2007 and made in M.P.No.1 of 2007 in CrI.A.No.1096 of 2007.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

Criminal Appeal No.1096 of 2007

Rasu @ Raghunathan

... Appellant/Accused

Vs.

State by
Deputy Superintendent of Police
Palladam
Soolur Police Station

... Respondent/Complainant

Criminal Appeal filed under Section 378 of Cr.P.C., against the judgment passed by Principal and Special Sessions Court, Coimbatore in Spl.S.C.No.6 of 2007 dated 23.11.2007, convicting the appellant for the offences u/s 3(1)(x) of SC/ST (PA) Act, 1989 and Sections 323 and 427 IPC.

For appellant : Mr.R.Rajarithnam

For Respondent : Mr.P.Govindarajan,
Additional Public Prosecutor

JUDGMENT

The convictions and sentences dated 23.11.2007 passed in Special Sessions Case No.6 of 2007 by the Principal and Sessions Court, Coimbatore, are being challenged in the present Criminal Appeal.

2. The consistent case put forth on the side of the prosecution is that the defacto complainant by name Ravi belongs to Scheduled

Caste, whereas the accused belongs to some other caste. On 18.5.2005 at about 3.30 p.m., while the defacto complainant has been writing on the wall of Velusamy with his permission, the accused questioned the same by way of using the caste of the defacto complainant and thereby attacked him and he also caused damage to the tune of Rs.450/-. After occurrence, the defacto complainant has given Ex.P.1, complaint and the same has been registered in Crime No.446 of 2005.

3. On receipt of Ex.P.1, the Inspecting Officer, viz, P.W.10 has conducted investigation, examined connected witnesses and after completing the same, laid a final report on the file of the District Munsif cum Judicial Magistrate Court, Palladam and the same has been taken on file in P.R.C.No.15 of 2005.

4. The District Munsif cum Judicial Magistrate, Palladam, after considering the fact that the offences alleged to have been committed by the accused are triable by Sessions Court, has committed the case to the trial Court and the same has been taken on file in Special Sessions Case No.6 of 2007.

5. The trial court, after hearing both sides and upon perusing relevant records, has framed first charge against the accused under section 323 of Indian Penal Code, second charge against him under section 3(1)(x) of SC & ST Act and third charge against him under section 427 of Indian Penal Code and the same have been read over and explained to him. The accused has denied the charge and claimed to be tried.

6. On the side of the prosecution, P.Ws.1 to 10 have been examined and Exhibits 1 to 13 and Material Objects 1 to 4 have been marked.

7. When the accused has been questioned under Section 313 of the Criminal Procedure Code, as respects the incriminating materials available in evidence against him, he denied his complicity in the crime. No oral and documentary evidence have been adduced on the side of the accused.

8. The trial court, after hearing both sides and also perusing the relevant evidence available on record, has found the accused guilty under Section 323 of IPC and also imposed a fine of Rs.1,000/- with usual default clause. He has also been found guilty under section 3(1)(x) of SC & ST Act and sentenced him to undergo 6 months Rigorous Imprisonment. Further, the trial court has found him guilty under section 427 of IPC and sentenced him to undergo 6 months

rigorous imprisonment. Against the convictions and sentences passed by the trial court, the present Criminal Appeal has been filed at the instance of the accused as appellant.

9. The learned counsel for the appellant/accused has sparingly contended that the defacto complainant has been examined as P.W.1 and his specific evidence is that he has not known the accused prior to occurrence and one Subramaniam has introduced him and further in Ex.P.10, Accident Register, it is mentioned that the defacto complainant has been attacked by an unknown person and the trial court, without considering the feeble evidence adduced on the side of the prosecution, has erroneously invited convictions and sentences and therefore the convictions and sentences passed by the trial court, are liable to be set aside.

10. The learned Additional Public Prosecutor has contended that in the instant case, even though eye witnesses have not supported the case of the prosecution, the defacto complainant has been examined as P.W.1 and his specific evidence is that in the place of occurrence, the accused has attacked him by way of telling his caste and he has also caused damage to the tune of Rs.450/- and the trial court, after considering the evidence available on record, has rightly invited convictions and sentences and the same are not liable to be set aside.

11. The entire case of the prosecution is based upon Ex.P.1, complaint alleged to have been given by the defacto complainant. The defacto complainant has been examined as P.W.1. During the course of chief examination, he has candidly admitted to the effect that at the time of doing his work, one Subramaniam has introduced the appellant/accused and he has also told him about his caste, but during the course of cross-examination, he would say that he has not seen the appellant/accused earlier. At this juncture, the Court has to look into the evidence given by the said Subramaniam. The said Subramaniam has been examined as P.W.2 and virtually he has not supported the case of the prosecution. Since P.W.2 has not supported the case of the prosecution, it is highly impossible on the part of the Court to accept the evidence given by the defacto complainant. Further, in Ex.P.10, Accident Register, it has been simply stated that the defacto complainant has been attacked by an unknown person.

12. The trial court, without considering the fact that even an iota of evidence is not available on the side of the prosecution so as to come to a conclusion that the appellant/accused is guilty under the sections mentioned in the charges, has erroneously invited convictions and sentences. Therefore, viewing from any angle, the

convictions and sentences passed by the trial court are not factually and legally sustainable and the same are liable to be set aside.

In fine, this Criminal Appeal is allowed. The convictions and sentences passed against the appellant/accused in Special S.C.No.6 of 2007 by the trial court are set aside and the appellant/accused is acquitted. Bail Bond, if any executed by him, shall stand cancelled. Fine amount paid by him is ordered to be refunded forthwith.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ajr

To

- 1.The Judicial Magistrate,
Palladam, Coimbatore.
- 2.The Chief Judicial Magistrate,
Coimbatore (For Information)
- 3.The Principal and Special Sessions Judge,
Coimbatore
- 4.The Deputy Superintendent of Police,
Palladam,
Soolur Police Station
- 5.The Public Prosecutor,
High Court, Chennai

JSV(CO)
CA(23/09/2015)

Crl.A.No.1096 of 2007

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