

BAIL SLIP

The 1st Petitioner/Accused was enlarged on bail as per the order passed by this Hon'ble Court dt.23.12.2010 made in MP.4/10 in CrI.RC.No.1023/10.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.6.2015

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

CrI.R.C.No. 1023 of 2010

1.Sarkarai

2.Murugan

: Petitioners/Accused

versus

State represented by its
Sub Inspector of Police,
Kachirapalayam Police Station, Kallakurichi,
Crime No.351/2008

Villupuram District : Respondent /Complainant

Revision filed against the order made in C.A.No.27 of 2010 dated 15.7.2010 on the file of the Principal Sessions Court, Villupuram, confirming the order of conviction and sentence dt.3.2.2010 in CC.No.335/08 on the file of the Judicial Magistrate Court, Kallakurichi, Villupuram District and set aside the same.

For petitioners : Mr.P.Pugalenth

For respondent : Mr.T.Arul, Government Advocate

सत्यमेव जयते
O R D E R

The petitioners were tried as A-1 and A-2 in C.C.No.335 of 2008, on the file of the Judicial Magistrate, Kallakurichi. The 1st petitioner/A-1, was convicted for offence under section 324 IPC and imposed a fine of Rs.1,000/- in default, to undergo simple imprisonment for three months. The 2nd petitioner/A-2 was convicted under Section 326 IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.2,000/-, in default to undergo 4 months rigorous imprisonment.

2. Aggrieved by the said order, they preferred appeal in C.A.No.27 of 2010 before the Principal Sessions Court, Villupuram, who upheld the conviction and sentence imposed on the petitioners and dismissed the appeal. Challenging the same, the present revision has been filed.

3. Inasmuch as two courts have already gone into the facts and given concurrent findings holding the accused guilty, it may not be necessary for me to go into the facts and circumstances of the case again. Moreover, this court sitting in revision is called upon to satisfy itself with the correctness, legality and propriety of the orders passed by the courts below, and not to re-appraise the evidence. The case of the prosecution in brief is as follows:-

"a) On 9.8.2008, at about 8.30 p.m., due to previous enmity with regard to partition of properties, the petitioners attacked P.W.1, near his house. The 1st petitioner attacked P.W.1 with a iron rod on his head and the 2nd petitioner smashed the face of P.W.1 with a stone, resulting in loss of 4 teeth and tear of upper lip of P.W.1.

b) A case was registered against the petitioners and tried in C.C.No.335 of 2008 on the file of Judicial Magistrate, Kallakurichi and the petitioners were convicted as aforesaid."

4. After making some elaborate arguments, the learned counsel for the petitioners confined his arguments with regard to sentence alone. The learned counsel submitted that the 1st petitioner is now a senior citizen. The entire incident happened due to sudden provocation and it was not a preplanned one. Moreover, the victim and the petitioners are close relatives and the petitioners are now repenting for their actions. Therefore, the learned counsel prayed that some leniency shall be shown with respect to sentence.

5. The learned Government Advocate (Criminal Side) submitted that the 2nd petitioner/A-2 was the main accused, inasmuch as he smashed the face of the victim with a stone, resulting in loss of 4 teeth.

6. On going through the entire materials placed on record, it is seen that the petitioners and the victim are close relatives and as rightly pointed out by the learned counsel for the petitioners, the incident was not a pre-planned one and it had happened on a spur of the moment. The 1st petitioner is now stated to be a senior citizen. The overt act attributed to the 1st petitioner is not serious. Therefore, while confirming the conviction, the sentence alone is reduced to six months simple imprisonment. As regards the 2nd petitioner/ 2nd accused, while confirming the conviction, the sentence is reduced from two years rigorous imprisonment to one year rigorous imprisonment.

The criminal revision is disposed of accordingly.

7. The court below is directed to secure the custody of the petitioners and make them undergo the remaining part of the sentence. Bail bonds shall stand cancelled.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

- 1.The Principal Sessions Court, Villupuram.
- 2.The Judicial Magistrate, Kallakurichi
- 3.The Chief Judicial Magistrate, Villupuram District.
- 4.The Public Prosecutor, Madras
- 5.The Sub Inspector of Police,
Kachirapalayam Police Station,
Villupuram District
- 6.The Superintendent, Central Prison, Trichy.

Copy to:
The Section Officer,
Criminal Section, High Court, Madras.

+1 cc to Mr.P.Pugalenth, Advocate,SR.28915

ad(co)
krd 29/6

सत्यमेव जयते

Crl.R.C.No. 1023 of 2010

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