

Bail Slip:- that the Appellant/Accused namely Allimuthu was directed to be released on bail as per order of this court dated 15.11.2010 and made in CrI.M.P.No.1/2010 in CrI.RC.No.1132 of 2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.6.2015

CORAM:

THE HONOURABLE MR.JUSTICE B. RAJENDRAN

CRL. RC. No. 1132 of 2010

Allimuthu .. Petitioner

Versus

The State rep. by the
Sub Inspector of Police
Magudanchavadi Police Station
Salem District ... Respondent

Petition filed under Sections 397 read with 401 of the Criminal Procedure Code, against the Judgment dated 12.9.2010 passed in CrI.A. No. 129 of 2009 on the file of the I Additional Sessions Judge, Salem confirming the Judgment dated 03.11.2009 passed in C.C. No. 157 of 2006 on the file of the learned Judicial Magistrate No.2, Sankari.

For Petitioner : Mr.B.Vasudevan

For Respondent : Mr. V.Arul
Government Advocate (CrI.side)

ORDER

On the basis of the complaint given by the defacto complainant, namely, Jaganathan, a case in Crime No. 475 of 2005 was filed against the petitioner herein for the offences punishable under Sections 294 (b), 324, 506(2) of IPC. The respondent police filed final report before the Judicial Magistrate No.2, Sankari and the case has been taken on file in C.C.No.157 of 2006. After trial, the trial court convicted the accused for the offences punishable under Sections 324 and 506(2) IPC and sentenced them to undergo six months rigorous imprisonment for each count concurrently. Aggrieved by the same, the accused filed CrI.A. No. 129 of 2009 before the learned First Additional Sessions Judge, Salem and the same was dismissed confirming the judgment of the trial Court. Aggrieved by the order passed by the first appellate Court, the petitioner/accused has filed the present Criminal Revision Case.

<https://hcservices.ecourts.gov.in/hcservices/> 2. The case of the prosecution is that the accused and the complainant are residents of Kariyankadu village, Sankari Taluk, They own land sharing common boundaries besides a common well. The

accused family and the defacto complainant family had enmity over drawing water in the common wall. On 25.8.2006 at about 13.00 hours when the defacto complainant, Jaganathan was working in his field, the accused came and used abusive and filthy language and hit him on his head with wooden handle of the spade and caused hurt. When the defacto complainant cried out of pain, his brother, Mr.Pachiyappan, and father Mr.Ramar came to the spot. On seeing them, the accused ran away threatening the defacto complainant that " your death is in my hand someday". In this context, the defacto complainant had given a complaint based on which the accused were proceeded with for the offences as mentioned above.

3. The learned counsel appearing for the petitioner did not argue on merits but confined his argument only on the question of sentence imposed on the petitioner by the courts below. The learned counsel for the petitioner submits that the accused and the victim are the close relatives and adjoining land owners and the problem arose only in respect of drawing water from the common Well. The learned counsel further submitted that the petitioner had already undergone imprisonment for a period of 30 days. The learned counsel also submitted that the petitioner is prepared to pay a sum of Rs.20,000/- as compensation to the victim. Therefore, the learned counsel for the petitioner prayed for showing leniency in reduction of sentence.

4. I heard the learned Government Advocate appearing for the respondent State and perused the materials on record.

5. The trial court convicted the petitioner for the offences punishable under Sections 324 and 506 (2) IPC and sentenced to undergo six months rigorous imprisonment for each count and the same was also confirmed by the lower appellate Court. Such imprisonment was ordered to run concurrently by the Courts below out of which the petitioner had already undergone sentence for a period of one month (30 days).

6. Admittedly, the accused and the victim are close relatives and adjoining land owners. The problem arose between them only in respect of drawing water in the common Well and due to sudden provocation, the incident had occurred.

7. Taking into consideration the submission of the counsel for the petitioner, the fact that the accused and the defacto complainant are close relatives and adjoining land owners and that due to sudden provocation, the incident had occurred and that the petitioner now voluntarily undertakes to pay a sum of Rs.20,000/- as compensation to the victim and that he had undergone sentence for a period of 30 days so far, I am of the view that some leniency can be shown to the petitioner in reducing the sentence.

8. Accordingly, while confirming the conviction imposed by the Courts below, the sentence is modified to one of the period already undergone. It is further directed that the petitioner shall deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) as volunteered by him to the credit of C.C.No.157 of 2006 on the file

of the learned Judicial Magistrate No.2, Sankari, as compensation within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the trial Court shall hand over the same to the Victim, on proper identification. It is also made clear that if the petitioner fails to pay the compensation amount as volunteered by him within the time stipulated by this Court, he shall undergo the remaining period of sentence as ordered by the Courts below.

9. With the above observation and modification in sentence, the Criminal Revision Case is partly allowed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1. The Judicial Magistrate No.2
Sankari
2. do thro the Chief Judicial Magistrate
Salem
3. The First Additional Sessions Judge
Salem.
4. do thro the Principal Sessions Judge
Salem
5. The Public Prosecutor,
High Court, Chennai.

1 cc to Mr.B.Vasudevan, Advocate, Sr. 27666

CRL.RC.No. 1132 of 2010

MG (CO)
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