

Bail Slip

The petitioner/Accused No.1 namely Subramani, S/o. Ponnusamy, was directed to be released on bail as per the order of this court dated 02.02.2011 in M.P.No.2/2010 in Crl.R.C.No.1293/2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.6.2015

CORAM:

THE HONOURABLE MR.JUSTICE B. RAJENDRAN

CRL. RC. No. 1293 of 2010

Subramani

.. Petitioner/1st Accused

Versus

The State rep. by the
Sub Inspector of Police
Erumapatty Police Station
Namakkal District

.. Respondent/Complainant

Petition filed under Sections 397(1) read with 401 of the Criminal Procedure Code, against the Judgment dated 17.9.2010 passed in Crl.A. No. 18 of 2008 on the file of the Additional District Sessions Judge, (Fast Track Court) Namakkal, confirming the Judgment dated 23.4.2008 passed in C.C. No. 121 of 2005 on the file of the learned Judicial Magistrate No.1, Namakkal.

For Petitioner : Mr.N.Sudharsan for Mr.B.Vasudevan

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

ORDER

On the basis of the complaint given by the defacto complainant, namely, PazhaniGounder, a case in Crime No. 22 of 2005 was filed against six persons, namely, the petitioner herein, Ramaiya (second accused), Ganesan (third accused), Pugazhenthhi (Fourth accused), Velu (fifth accused) and Senthil (sixth accused) for the offences punishable under Sections 148, 323, 324, 326, and 506 (2) of IPC. The respondent police filed final report before the Judicial Magistrate No.1, Namakkal and the case has been taken on file in C.C.No.121 of 2005. After trial, the trial court convicted the accused for the offences punishable under Section 148 and sentenced them to undergo one year Simple Imprisonment and to pay a fine of Rs. 2,000/- and in default to undergo 6 months simple imprisonment and also convicted the first and third accused for the offences punishable under Section 326 and sentenced them to undergo two years

simple imprisonment and to pay a fine of Rs.2,000/- in default to undergo six months simple imprisonment and convicted the second accused for the offences punishable under Section 324 and sentenced him to undergo 1 year simple imprisonment and to pay a fine of Rs.2000/- and in default to undergo six month simple imprisonment and convicted the fifth and sixth accused for the offences punishable under Section 323 and sentenced them to undergo three months simple imprisonment and to pay a fine of Rs.500/- in default to undergo one month simple imprisonment and also convicted the accused for the offence under Section 506 (2) and sentenced to undergo one year Simple Imprisonment and to pay a fine of Rs.1000/- and in default to undergo 3 months simple imprisonment concurrently. Aggrieved by the same, the accused filed Crl.A.No.18 of 2008 before the learned Additional District Sessions Judge, Namakkal and the same was partly allowed by setting aside the conviction and sentence under Section 148, 506(ii) IPC and 326 IPC and confirmed the conviction under Section 326 IPC and modified the sentence to undergo simple imprisonment of 6 months instead of 2 years and confirmed the fine amount of Rs.2,000/-. Aggrieved by the order passed by the first appellate Court, the first accused has filed the present Criminal Revision Case.

2. The case of the prosecution is that on 16.1.2005 at about 7.00 p.m. due to land dispute, the accused formed unlawful assembly with deadly weapons and that the first accused with Koduval caused grievous injury on right little finger of the defacto complainant / PW1 and that the second accused with koduval caused grievous injury on the left leg of P.W.2 and that the third accused attacked P.W.3 with iron rod and that the fifth and sixth accused caused simple injuries by attacking P.W.4 with stick and that all the accused threatened to do away the life of the witnesses P.W.1 to P.W.4. 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/first accused by the courts below. The learned counsel for the petitioner submits that even as per the evidence of doctor, there was only one injury and that the same was also not so serious. The learned counsel for the petitioner further submits that the sentence imposed against all other accused have been set aside by the First Appellate Court while confirming the payment of fine whereas the petitioner herein has been awarded sentence that too, for a period of six months. The learned counsel also submits that only due to sudden provocation, the incident had occurred. It is submitted by the learned counsel that the petitioner had already undergone imprisonment for a period of 7 days. It is also submitted by the learned counsel that the petitioner is prepared to pay some amount as compensation to the defacto complainant. Therefore, the learned counsel for the petitioner prayed for showing leniency in reduction of sentence.

4. The learned Government Advocate (Criminal side) submitted that Doctor has been examined in this case and the wound certificate has also been produced, wherein it is clearly stated that there was

a fracture and the victim was admitted as Inpatient for 9 days. The learned Government Advocate also submitted that already leniency has been shown by the First Appellate Court by reducing the sentence to six months from two years. Therefore, the learned Government Advocate prays for dismissal of the revision.

5. I have heard the learned counsel for the petitioner, learned Government Advocate appearing for the respondent State and perused the materials on record.

6. The trial court convicted the petitioner for the offences punishable under Sections 148, 326, 506 (ii) of IPC and sentenced to undergo one year Simple Imprisonment and to pay a fine of Rs.2,000/- and in default to undergo 6 months simple imprisonment for the offence under Section 148 of IPC and for the offence under Section 506 (2), the trial Court sentenced the petitioner to undergo one year Simple Imprisonment and to pay a fine of Rs.1000/- and in default to undergo 3 months simple imprisonment. Such imprisonment was ordered to run concurrently by the Courts below out of which, the petitioner had already undergone sentence for a period of 7 days.

7. The problem arose between the accused and the defacto complainant only in respect of land dispute and due to sudden provocation, the incident had occurred. Admittedly, there was a fracture in Metacarpal and the defacto complainant underwent treatment for 9 days as Inpatient. Admittedly, the pain which would have undergone by the defacto complainant would be very severe in nature. But at the same time, now the petitioner says that he is now repenting for the mistake done by him and that he is willing to pay some compensation for the said act committed by him and that he has already undergone imprisonment for seven days totally including the period during FIR. Mere money cannot compensate the pain undergone by the defacto complainant.

8. However, taking into consideration the submission of the counsel for the petitioner, the fact that the problem arose only in respect of land dispute and that due to sudden provocation, the incident had occurred and that the petitioner now voluntarily undertakes to pay some compensation, to the victim and that he had undergone sentence for a period of 7 days so far, I am of the view that some leniency can be shown to the petitioner in reducing the sentence.

9. Accordingly, while confirming the conviction imposed by the Courts below, the sentence is reduced to six months. Fine amount awarded by the First Appellate Court is confirmed. It is further directed that the petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of C.C.No.121 of 2005 on the file of the learned Judicial Magistrate No.1, Namakkal, 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, as compensation, on proper identification. It is also made clear that if the petitioner fails to pay the compensation amount, within the time stipulated by this Court, he shall undergo the remaining period of sentence as ordered by the First Appellate Court.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District Sessions Judge
Namakkal
 2. The Judicial Magistrate No.1
Namakkal.
 3. -do- Throguh The Chief Judicial Magistrate,
Namakkal (for Information)
 4. The Superintendent, Central Prison, Coimbatore.
 5. The Sub Inspector of Police,
Erumapatty Police Station, Namakkal District.
 6. The Public Prosecutor,
High Court, Chennai.
- + 1 cc to M/s. B. Vasudevan, Advocate Sr.27664

CRL.RC.No. 1293 of 2010

SAI (CO)
EU(30/06/2015)

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