

Bail Slip

The Appellants/Accused namely Dharmaraj S/o. Sedhu & Sedhu S/o. Kaliyaperumal was directed to be released on bail as per order dated: 09.02.2010 made in CrI.M.P.1/2010 in CrI.R.C.153/2010 on the file of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-10-2015

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 153 of 2010

1.Dharmaraj

2.Sedhu

3.Senthilkumar

... Petitioners

Versus

The State by
Inspector of Police
Thirumanur Police Station
Ariyalur District
Cr.No.302 of 2001

... Respondent

Criminal Revision case filed under Section 397 (1) r/w. 401 of Cr.P.C. against the Judgment dated 19.01.2010 passed in CrI.Appeal No. 9 of 2008 on the file of the Principal Sessions Judge, Perambalur, Ariyalur District, confirming the judgment dated 18.03.2008 passed in S.C. No. 9 of 2007 on the file of the Chief Judicial Magistrate-cum-Assistant Sessions Judge, Perambalur, Ariyalur District.

For Petitioners : Mr.I.C.Vasudevan

For Respondent : Mr.Mohamed Riyaz
Government Advocate (CrI.side)

ORDER

The petitioners were arrayed as accused Nos. 1 to 3 in S.C. No. 9 of 2007 on the file of the learned Chief Judicial Magistrate-cum- Assistant Sessions Judge, Perambalur, Ariyalur District, and after trial, the 1st petitioner was convicted for the offences under Sections 294(b) and 326 IPC and sentenced to pay a fine of Rs.1,000/- in default to undergo rigorous imprisonment for two months for the offence under Section 294(b) IPC and sentenced to undergo four years rigorous imprisonment and to pay a fine of Rs.2,000/- in default to undergo six months rigorous imprisonment for the offence under Section 326 IPC;

the 2nd petitioner was convicted for the offences under Sections 294(b) and 324 IPC and sentenced to pay a fine of Rs.1,000/- in default to undergo rigorous imprisonment for two months for the offence under Section 294(b) IPC and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- in default to undergo one month rigorous imprisonment for the offence under Section 324 IPC; and the 3rd petitioner was convicted for the offence under Section 294(b) IPC and sentenced to pay a fine of Rs.1,000/- in default to undergo two months rigorous imprisonment, by judgment dated 18.03.2008. As against the judgment of conviction and sentence imposed on the petitioners, they have filed Crl. Appeal No. 9 of 2008 before the Principal Sessions Judge, Perambalur, Ariyalur District. The said Appeal was dismissed on 19.01.2010, thereby, confirming the judgment of conviction and sentence passed by the Trial Court. Aggrieved against the same, the present Criminal Revision Case is filed.

2. The case of the prosecution is that on 25.07.2001, at about 8.00 a.m., near Karaipakkam Village, when the defacto complainant went to take bath, he was assaulted by the accused Nos.1 to 3 with an iron rod, as a result of which, he sustained injuries on his left front leg, right shoulder and right back. The accused Nos. 1 to 3 were also alleged to have scolded the defacto complainant using filthy language and hence, the complaint. Both the Courts below have concurrently found the petitioners guilty of the charges and they were sentenced to undergo imprisonment as mentioned supra.

3. Mr.I.C.Vasudevan, learned counsel appearing for the petitioners argued only on sentence and not on merits. He would further contend that the defacto complainant is alleged to have been beaten up by the accused Nos. 1 to 3 using an iron rod, unfortunately, the iron rod or any other weapon has not been produced before the Court to prove the case of the prosecution and also to prove whether the injury sustained by the defacto complainant is grievous injury or not. To substantiate the said contention and also the fact that if the material object is not produced before the Court, the sentence can be reduced, the learned counsel relied on the decision of this Court reported in 2000-2-L.W.(Crl.) 861, Sampath and others vs. State, rep. by Sub-Inspector of Police, Dusi Police Station. He would further contend that the second petitioner/second accused is aged 72 years and he is almost in the death-bed and he is suffering from several ailments and that he has already undergone sentence for a period of eight days and that he has already paid the fine imposed by the Trial Court and that he is now prepared to abide by any other condition imposed by this Court.

4. Mr. V.Arul, learned Government Advocate (Criminal Side) appearing for the respondent would contend that the injury sustained by the defacto complainant is grievous in nature viz., there is dislocation of joint in the left hand, therefore, the Doctor has opined that it is a grievous injury.

5. Heard both sides. By consent, the main Criminal Revision Case itself is taken up for final disposal.

6. The Courts below also analysed the materials available on record and convicted the petitioners and I do not find any reason to interfere with the same and therefore, the conviction imposed on the petitioners by the Courts below is confirmed.

7. As far as reduction of sentence, the learned counsel for the petitioners prayed this Court to consider reducing the sentence taking into consideration that the petitioners have repented for their deeds and that they are the sole breadwinners of their family and that the second petitioner is a senior citizen, aged 72 years. Considering the request of the learned counsel for the petitioners, while upholding the conviction imposed on the petitioners by the Courts below, insofar as second petitioner/second accused is concerned, taking into consideration that he is a senior citizen aged 72 years and he has already undergone sentence for eight days and he is having several ailments and he is in death-bed, the sentence for the offence under Section 324 IPC shall be treated as the period of sentence already undergone is sufficient and for the offence under Section 294(b) IPC, the sentence of fine of Rs.1,000/- imposed by the Court below stands modified and it is enhanced from Rs.1000/- to Rs.10,000/-, out of which, it is represented that the second petitioner has already paid the fine amount of Rs.1,000/- . The said statement is recorded and the second petitioner is directed to pay the balance enhanced fine amount of Rs.9,000/- (Rs.10,000/- - Rs.1,000/- (already paid) = Rs.9,000/-) within a period of four weeks from the date of receipt of a copy of this order, failing which, he shall undergo simple imprisonment for one month. Insofar as the third petitioner is concerned, the sentence of fine imposed by the Court below for the offence under Section 294(b) IPC stands confirmed. Insofar as the first petitioner is concerned, taking into consideration, the grievous nature of injury sustained by the defacto complainant, at the same time, he is now repenting for his misdeeds and that he is the sole breadwinner of the family and he is a close relative of the defacto complainant, now, he wants to have a cordial relationship with the defacto complainant and he wants to buy peace, the sentence is modified to the effect that the first petitioner/first accused shall undergo rigorous imprisonment for a period of six months for the offence under Section 326 IPC instead of four years rigorous imprisonment and the fine amount for the said offence stands confirmed. The Trial Court is directed to take steps to secure the presence of the first petitioner to undergo the period of sentence of six months rigorous imprisonment. It is needless to mention that any sentence already undergone by the first petitioner shall be given set off as contemplated under Section 428 of Cr.P.C. The first petitioner is further directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) as compensation to the credit of S.C. No.9 of 2007 on the file of the Chief Judicial Magistrate-cum-Assistant Sessions Judge, Perambalur, within a period of eight weeks from the date of receipt of a copy of this order. If the compensation amount is

not deposited as directed above within the time stipulated herein, the judgment of the Trial Court shall stand revived and the first petitioner has to undergo the remaining period of the sentence. On such deposit being made, the amount shall be paid as compensation to the defacto complainant on filing proper application and also on ascertaining his identity. The sentence of fine imposed on the first petitioner by the Court below for the offence under Section 294(b) IPC stands confirmed.

8. With the above modification in sentence, this Criminal Revision Case is partly allowed insofar as petitioners 1 and 2 are concerned. The judgment of conviction and sentence passed by the Appellate Court insofar as third petitioner is concerned stands confirmed and the Criminal Revision Case insofar as third petitioner is concerned stands dismissed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

- 1.The Inspector of Police
Thirumanur Police Station
Ariyalur District.
 - 2.The Principal Sessions Judge
Perambalur
Ariyalur District.
 - 3.The Chief Judicial Magistrate
-cum- Assistant Sessions Judge
Perambalur, Ariyalur District.
 - 4.The Judicial Magistrate, Ariyalur.
 - 5.The Public Prosecutor, High Court, Madras.
- +2 ccs to Mr.I.C.Vasudevan, Advocate, sr.52986 & 55642

Cr1.R.C. No. 153 of 2010

kk co
kra 26.11.2015