

Bail Slip

The Petitioner/Appellant/2nd Accused was directed to be released on bail and by the order of this Court dt. 17.02.2009 and made in MP.No.1 of 2009 in Crl.R.C.NO.187 of 2009.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Criminal Revision Case No.187 of 2009

Jeevanantham

...Petitioner/Second Accused

Versus

The State
rep. by Inspector of Police
Periyanaickenpalayam
Coimbatore

...Respondent/Complainant

Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure praying to set aside the Judgment dated 15.11.2008 passed in Criminal Appeal No. 330 of 2008 on the file of Additional District and Sessions Judge cum Fast Track Court No.1, Coimbatore confirming the Judgment dated 20.09.2008 passed in S.C. No. 213 of 2007 on the file of I Additional Assistant Sessions Court, Coimbatore.

For Petitioner : Mr. B. Nedunchezhiyan

For respondent : Mr. V. Arul

सत्यमेव जयते
Government Advocate (Crl.side)

ORDER

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The petitioner, who was arrayed as second accused in the Sessions Case before the trial Court has come forward with this Criminal Revision Case questioning the correctness of the orders passed by the court below convicting and sentencing him for the offences punishable under Section 341 of IPC.

2. The case of the prosecution is that one week prior to 04.04.2007, there was a dispute between the defacto complainant and the accused with respect to parking of taxi in the taxi stand. Due to such previous enmity, on 04.04.2007 at about 08.30 p.m. the accused 1, 3 and 4 have held the defacto complainant Shankar Raj and the revision petitioner/A-2 caused cut injuries with a aksha blade. In the impact, the defacto complainant sustained cut injuries on his left chest, left abdomen etc., On seeing this incident, the prosecution witnesses Manickam, Senthilkumar and others came to the

rescue of the defacto complainant but they were also threatened by A-2 with dire consequences to kill them. In connection with this incident, a case in Crime No. 130 of 2007 was registered against all the accused. As far as the petitioner/A-2 is concerned, he was charged for the offence punishable under Section 341, 307 and 506 (ii) of IPC. After conducting investigation and recording the statement of the witnesses, PW7, the investigation officer filed the charge sheet on 08.10.2007. The trial Court, after appreciation of the oral and documentary evidence, acquitted the petitioner/A-2 from the offences under Sections 307 and 506 (ii), however, found him guilty for the offence punishable under Section 324. For such offence, the trial Court, sentenced the petitioner/A-2 to undergo rigorous imprisonment for a period of two years with fine of Rs.600/-, failing which to undergo rigorous imprisonment for a period of one month.

3. The learned counsel for the petitioner did not argue the case on merits, but confined his argument with respect to reduction of sentence. According to the counsel for the petitioner, the incident took place in a spur of moment without any pre-meditation. The incident was preceded by a wordy quarrel and the petitioner/ A-2 has caused the injuries to the defacto complainant out of a sudden provocation. That is the reason why the trial court did not take cognisance for the offence punishable under Section 307 of IPC for which the petitioner was charged by the respondent police. Further, the injuries inflicted on the defacto complainant are not severe injuries but minor injuries. The petitioner is the only bread winner in his family and he repents for his misdeeds. Therefore, the counsel for the petitioner prays for reduction of sentence imposed by the trial court from two years.

4. Per contra, the learned Government Advocate would contend that the petitioner is the aggressor and he had used blade to cause the injuries on the defacto complainant at the time of occurrence. The prosecution has proved the guilt of the petitioner/A-2 beyond any reasonable doubt and therefore the court below has prompted to impose the sentence for about two years. According to the learned Government Advocate, the sentence of two years imposed on the petitioner is fair and justified and he prays for dismissal of the Criminal Revision Case.

5. I heard the learned counsel for both sides and perused the order passed by the court below as well as other material evidence placed. Admittedly, the defacto complainant had sustained two injuries on his left chest and abdomen. The petitioner has used a blade to commit the offence. As pointed out by the counsel for the petitioner, the incident took place out of a sudden provocation and in a spur of moment. There is no intention on the part of the petitioner to cause the injuries, but it was preceded by a wordy quarrel. It is also seen from the records that even though the respondent police charged the petitioner for the offence punishable under Section 307 of IPC, having regard to the nature of the offence and the evidence made available, the trial Court did not take cognisance of the offence punishable under Section 307 of IPC but imposed sentence for a period of two years for the offence under Section 324 of IPC. It is also seen from the records that the other

accused namely A-1, A-3 and A-4 have been acquitted by the trial court by holding that the prosecution has not proved their guilt beyond reasonable doubt.

6. Having regard to the above facts and the submission of the counsel for the petitioner that the petitioner repents for his misdeeds, I am inclined to reduce the period of sentence imposed on the petitioner. Accordingly, while upholding the conviction imposed by the trial court on the petitioner/A-2 for the offence under Section 324 of IPC, the sentence alone is modified from two years to six months. It is stated that the petitioner has paid the fine amount of Rs.600/- and the same is recorded.

7. In the result, the Criminal Revision Case is partly allowed by only modifying the period of sentence. The trial Court is directed to take necessary steps to secure the presence of the petitioner/A-2 to undergo the remaining period of sentence. The period of sentence already undergone by the petitioner, if any, can be given set off as contemplated under Section 428 of Cr.P.C.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District and Sessions Judge
cum Fast Track Court No.1
Coimbatore
2. The I Additional Assistant Sessions Court
Coimbatore.
3. The Principal Sessions Judge, Coimbatore.
4. The Public Prosecutor, High Court, Madras.
5. The Inspector Police, Periyanaickenpalayam,
Coimbatore.

+ 1 cc to Mr.B. Neduchezhiyan, Advocate SR.44133

Cr1.R.C. No.187 of 2009

KM(CO)
EU(19/09/2015)