

Bail Slip

The Appellant herein Palanichamy Nadar, Accused in Spl.S.C.No.27/06 on the file of the learned Principal District Judge, Coimbatore was directed to be released on bail as per the order of this court dt. 5.09.2007 and made in MP.No.1/2007 in CrI.A.No.815/2007.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08-07-2015

CORAM

THE HON'BLE MR.JUSTICE P.DEVADASS

CrI.A.No.815 of 2007

Palanichamy Nadar ... Appellant/Accused

Vs.

State by

The Inspector of Police,  
Mangalam Police Station,  
Palladam Taluk,  
Coimbatore District.  
(Crime No.429/2005)

... Respondent/Complainant

This Criminal Appeal is filed under Section 374 of Cr.P.C., to set aside the JUDGMENT passed in Spl.S.C.No.27 of 2006 on 10.7.2007 by the Principal District Judge, Coimbatore

For Appellant : Mr.R.Sankarasubbu for  
Mr.T.P.Senthilkumar

For Respondent : Mr.P.Govindarajan  
Additional Public Prosecutor

JUDGMENT

The sole accused in the Spl. S.C.No.27 of 2006 on the file of the Special Judge under SC/ST (PT) Act/Principal Sessions Judge, Coimbatore is the appellant.

2 The accused has been prosecuted before the said Court for having committed offences under section 3(1) (x), 3(1) (xi) of SC/ST (PA) Act r/w 354 of I.P.C. and Section 323 of I.P.C.

3 Ultimately, he was convicted and sentenced as detailed below:

| Conviction                                   | Sentence                                              |
|----------------------------------------------|-------------------------------------------------------|
| (i) 3(1) (x) of SC/ST Act                    | 6 months R.I. and fine Rs.1000/- i/d 2 months R.I.    |
| (ii) 3(1) (xi) of SC/ST Act r/w 354 of I.P.C | One year R.I. and fine Rs.1000/- i/d 2 months R.I.    |
| (iii) 323 I.P.C.                             | Fine Rs.1000/- i/d 2 months R.I.                      |
|                                              | Both the sentences were directed to run concurrently. |

3. The case of the prosecution runs as under:

(i) P.W.1 Kanniammal belongs to Mangalam Village in Palladam Taluk in Coimbatore District. She belongs to Arundhathiyar community (Scheduled Caste) Ex.P.4 is the community certificate issued to her by P.W.7 Paulraj, Tahsildar, Palladam Taluk.

(ii) Appellant is running a petty shop very near to P.W.1's house. He belongs to Nadar community, backward class (Nadar). (Ex.P5 Community certificate has been issued to him by P.W.8 Viswanathan, Dy. Tahsildar, Palladam Taluk.

(iii) On 7.10.2015 at about 10.45 a.m. in connection with discharge of waste water from the pipe quarrel arose between P.W.1 and the appellant/accused. The accused called her by her caste intending to defame her. Accused also slapped her. This occurrence has been witnessed by P.W.2, 3 and 9 viz., Muthammal, Chinnakali and Arumugam. P.W.1 lodged Ex.P1 complaint with P.W.10 Gudan, S.I. of Police, Mangalam Police station. He registered this case (Ex.P6 F.I.R.).

(iv) P.W.4 Dr.Rajkumar, Medical Officer, Government hospital, Tiruppur treated P.W.1 and issued her Ex.P2 Wound certificate that she had simple injury.

(v) P.W.4 Balakrishnan, Dy.Superintendent Police, Tiruppur took up his investigation. He visited the scene place. Prepared Ex.P3 Observation Mahazar in the presence of P.W.6 Murugesan and another. He drew Ex.P7 rough sketch. He examined the witnesses and recorded their statement. He obtained community certificate both for the accused and P.W.1. He also obtained wound certificate for P.W.1. Concluding his investigation, he filed the final report against the accused for offences under section 3(1) (x), 3(1) (xi) r/w 354 I.P.C. and Sec.323 I.P.C.

4 The learned Special Judge/Principal Sessions Judge, Coimbatore upon hearing both and on perusal of the case-records framed charges under Sections 3(1)(x), 3(1)(xi) r/w 354 I.P.C. and Sec.323 I.P.C. The accused pleaded not guilty to the charges.

5 To substantiate the charges, prosecution examined PWs-1 to 11, marked Exs.P-1 to P-7. On the incriminating aspects in the prosecution evidence, the accused has been examined under section 313 Cr.P.C. He denied the offences. He did not let in any evidence on his side.

6 Appreciating the said evidence and considering the arguments of both sides, the learned Special Judge convicted and sentenced the appellant as already stated.

7 The learned counsel for the appellant submitted that both the appellant and the P.W.1 are neighbours. They have forgotten the bitter past. Now, there is harmony between both sides. By the passage of time viz., 10 years the unpleasant events had fade away from their memory. Now, no foes, only friends.

8 P.W.1 Kanniammal filed affidavit vouchsafing the submissions of the learned counsel for the petitioner.

9 P.W.1 present today in Court. She had stated that she and the accused have become friends. Now, no enmity between them. Her statement has been recorded.

10 The learned Additional Public Prosecutor submitted that P.W.1 has been identified by Head Constable Venkatesh, Tiruppur police.

11 I have anxiously considered the rival submissions, perused the impugned judgment and the entire materials on record.

12 The oral and documentary evidence let in which we have already seen had unimpeachably establishes the charges framed against the accused. We concur with the findings of the trial Court.

13 Now the accused and he victim/P.W.1 have compromised the matter. They are neighbours. They are living peacefully.

14 In Ishwarlal vs. State of Madhya Pradesh (1973(2) SCC 456) in a Criminal appeal, the Hon'ble Supreme Court came to the conclusion that when parties are compromised, it is not worthy to allow the parties to fight endlessly. In order to promote peace that is the sole object of justice, while confirming the conviction reduced the sentence to the period already undergone. Subsequently, in Ishwar Singh vs. State of Madhya Pradesh (2008(15) SCC 667) the same view has been reiterated.

15 Gyan Singh vs. State of Punjab has become authority on the aspect when the Court taking cognizance of such compromise relieving the parties from the pangs of criminal proceedings. Subsequently, Larger Bench (3 Judge) of the Hon'ble Supreme Court has reviewed the Gyan Singh case and considered the position of law in the matter of compromise in a non compoundable offence with reference to section 482 Cr.P.C. and section 320(8) of Cr.P.C. and concluded that inherent power of the Court under section 482 Cr.P.C. is independent. Section 482 Cr.P.C. is based on the principle ex debito justitiae. Courts are intended for advancing justice. Courts under section 482 Cr.P.C. to do justice and undo injustice. As already noted, even before the Gyan Singh case, in 1973, 2008 and also recently, the Hon'ble Supreme Court while upholding the conviction with a view to maintain peace and communal harmony reduced the sentence to the period already undergone.

16 A learned Single Judge of this Court (Hon'ble Mr. Justice T. Sudanthiram) in Anbu vs. Inspector of Police, Villupuram in Criminal Appeal in Cr.No.268 of 2010 on 8.10.2012 where conviction has been recorded under section 3(1)(x) of SC/ST (PA) Act noticing the compromise between the parties and to maintain communal harmony permitted compounding of the offence. (Also see GIAN SINGH VS. STATE BY PUNJAB 2013(1) SCC (Cri) 160 and STATE OF RAJASTHAN VS. SHAMBHU KEWAT AND ANOTHER (2014(4) SCC 149).

15 Now, in the case before us, Kanniammal/P.W.1 and Palanisamy Nadar/appellant have forgotten all their differences, past bitterness. They are leading a peaceful life and there is preservation of communal harmony. In the circumstances, it is a fit case that the principles laid down by the Hon'ble Supreme Court in the above cases can be applied.

16 In the circumstances, this Criminal appeal is partly allowed. The convictions are confirmed. The sentence imposed on the appellant under section 3(1) (x) and Sec.3(1) (xi) of SC/ST (PA) Act r/w 354 of I.P.C. are reduced to the period already undergone. Bail bond executed by the appellant/accused shall stand cancelled.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

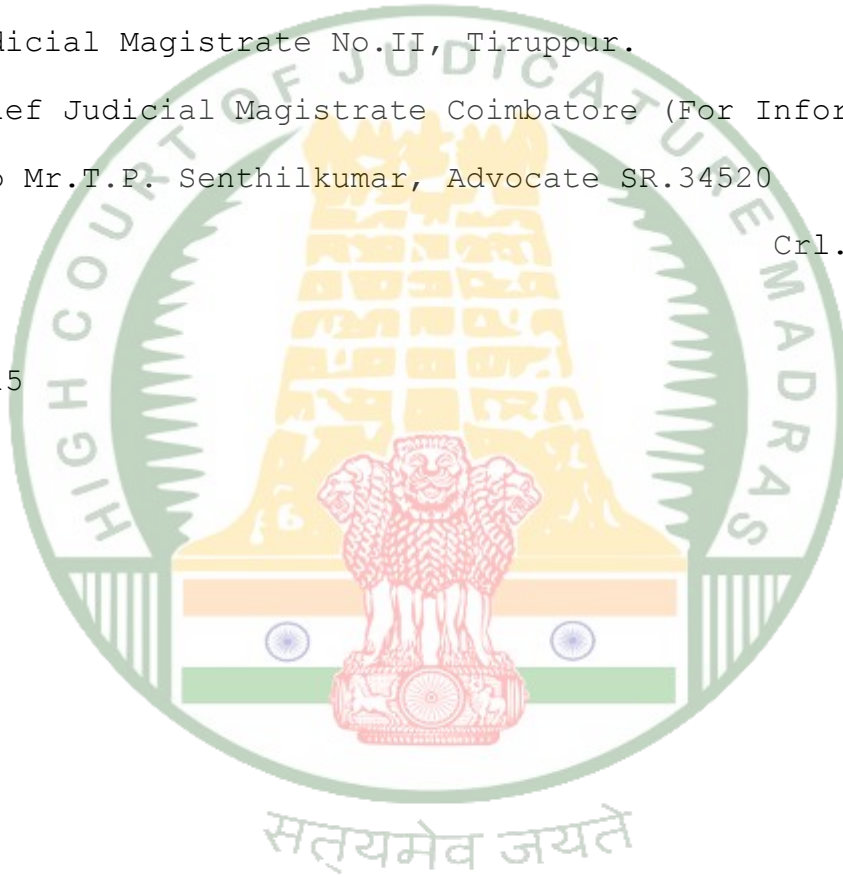
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To

- 1.The Special Judge Under SC/ST (PA)  
Act/Principal District Judge,  
Coimbatore.
  - 2.The Superintendent, Central Prison, Coimbatore
  - 3.The Public Prosecutor, High Court, Madras.
  - 4.The Inspector of Police, Mangalam Police Station,  
Palladam Taluk, Coimbatore District.
  5. The Judicial Magistrate No.II, Tiruppur.
  6. The Chief Judicial Magistrate Coimbatore (For Information)
- + 1 cc to Mr.T.P. Senthilkumar, Advocate SR.34520

Crl.A.No.815 of 2007

VSN(CO)  
Eu 24.07.15



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