

Bail Slip

Petitioner/Accused i.e. Raja was directed to be released on bail vide order of this court, dt. 15.11.2010 made in MP.No.4/10 in CrI.R.C.964/2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

CrI.Revision Case No.964 of 2010

Raja

.. Petitioner/Appellant/
Accused No.1

Versus

The State rep.by
Sub Inspector of Police
Krishnagiri Dam Police Station
Krishnagiri District.
(crime No.712/2007)

.. Respondent/Respondent/
Complainant

Revision Petition filed under Sections 397 read with Sec. 401 of Cr.P.C. against the judgment dated 30.06.2010 passed by the learned Principal District and Sessions Judge, Krishnagiri in C.A.No.18 of 2009 in confirming the order dated 05.06.2009 passed by the learned Chief Judicial Magistrate, Krishnagiri, Krishnagiri District in C.C.No.43 of 2008.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.T.Arul

Government Advocate (CrI.side)

ORDER

The petitioner has come forward with this Criminal Revision case as against the judgment dated 30.06.2010 passed by the learned Principal District and Sessions Judge, Krishnagiri in C.A.No.18 of 2009 in confirming the order dated 05.06.2009 passed by the learned Chief Judicial Magistrate, Krishnagiri, Krishnagiri District in C.C.No.43 of 2008.

2. The case of the prosecution in brief is as follows:

[a] On 09.07.2007 at about 11.00 p.m due to certain land dispute the petitioner, who is arrayed as A1 in this case, along with A2 to A4 attacked the defacto complainant with weapons and also abused her in filthy language. The respondent-police, based on the complaint given by the defacto complainant, registered a case in Crime No.712 of 2007, as against all the four accused persons for the offences punishable under Sections 294(b), 326, 323, 341, 354 and 506(ii) IPC. However, the trial Court after hearing both sides and based on the

oral and documentary evidence adduced convicted the petitioner herein for the offence under Section 325 IPC and sentenced him to undergo one year rigorous imprisonment and imposed a fine of Rs.500/-; in default to undergo one month simple imprisonment; whereas A2 and A3 were convicted for the offence under Section 323 IPC and sentenced to undergo three months rigorous imprisonment and A4 was convicted for the offence under Section 354 IPC and sentenced to undergo six months rigorous imprisonment and to pay a fine of Rs.500/-; in default to undergo one month simple imprisonment.

[b] Aggrieved against the said conviction and sentence passed by the trial court, all the accused preferred appeals and the first appellate court confirmed the conviction and sentence imposed by the trial court as against the petitioner/A1 alone. Further, the first appellate Court even though confirmed the conviction imposed by the trial court as against A2 to A4, set aside the sentence imposed into one of imposing the fine amount alone.

[c] Challenging the said judgment passed by the first appellate Court, the petitioner/A1 has preferred this criminal revision case.

3. Learned counsel appearing for the petitioner submitted that the first appellate Court has erred in confirming the conviction and sentence imposed against the petitioner alone, when all the other co-accused persons, viz., A2 to A4 were given the punishment of paying the fine amount alone. He would further submit that there is discrepancy in the weapon used by the petitioners while attacking the defacto complainant. According to the prosecution, the accused persons used torch light to attack the victim, whereas, as per the evidence of the Doctor PW6, the assault was made only by hand. Hence, there is a material contradiction. However, this vital point was not taken note of by the Courts below. Secondly, PW1 in her evidence had stated that two of her teeth had been broken; whereas P.W.6 Doctor would depose that only one tooth is affected and that too it is not broken, but it is shaking. Therefore, he would submit that there are several discrepancies in arriving at the conclusion by the Courts below.

4. Alternatively, the learned counsel for the petitioner would plead that the petitioner has repented for his deeds and therefore he prayed for leniency in reduction of sentence. He would also submit that the petitioner has already undergone imprisonment for 15 days and he is also prepared to pay some compensation to the victim.

5. Learned Government Advocate (Criminal Side) appearing on behalf of the respondent submitted that the Courts below after analysing the oral and documentary evidence elaborately, came to the conclusion that the petitioner has committed the offence only under Section 325 and not under 326 IPC. Further, the Courts below have imposed only a minimum period of sentence as punishment and it need not be interfered with by this Court.

6. Heard both sides and perused the materials available on record.

7. On a bare perusal of the judgments passed by the Courts below, it is seen that though PW1, who is the victim, has deposed about the nature of injuries and the manner in which she sustained such injuries at the hands of the accused, such evidence of PW1 was not fully corroborated by the Doctor-PW6, who deposed that the victim was assaulted only by hand and one of her tooth is affected and that too it was only shaking. Accordingly, the Courts below found that the offence is made out and convicted the petitioners. Hence, I do not find any reason to interfere with the same.

8. As far as reduction of sentence is concerned, the learned counsel for the petitioner prayed this Court to consider reducing the sentence by taking into consideration the fact that the petitioner is prepared to pay compensation to the victim and that the co-accused in this case have been imposed only with imposition of fine amount alone. Considering the request of the counsel for the petitioner, while upholding the conviction imposed on the petitioner by the courts below, I am inclined to reduce the sentence imposed on him for the offence under Section 325 of IPC into one of the period already undergone.

9. Accordingly, by way of showing leniency, the sentence awarded for a period of one year rigorous imprisonment under Section 325 IPC is reduced to one of the period already undergone. It is further directed that the petitioner shall deposit a sum of Rs.10,000/- [Rupees ten thousand only], as promised by him to the credit of C.C.No.43 of 2008 on the file of the learned Chief Judicial Magistrate, Krishnagiri, Krishnagiri District within a period of two weeks from the date of receipt of a copy of this order. On such deposit being made, the Court below 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 promised by him within the time stipulated by this Court, he shall undergo the remaining period of sentence as ordered by the Courts below.

10. With the above observation, this Criminal Revision Case is partly allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

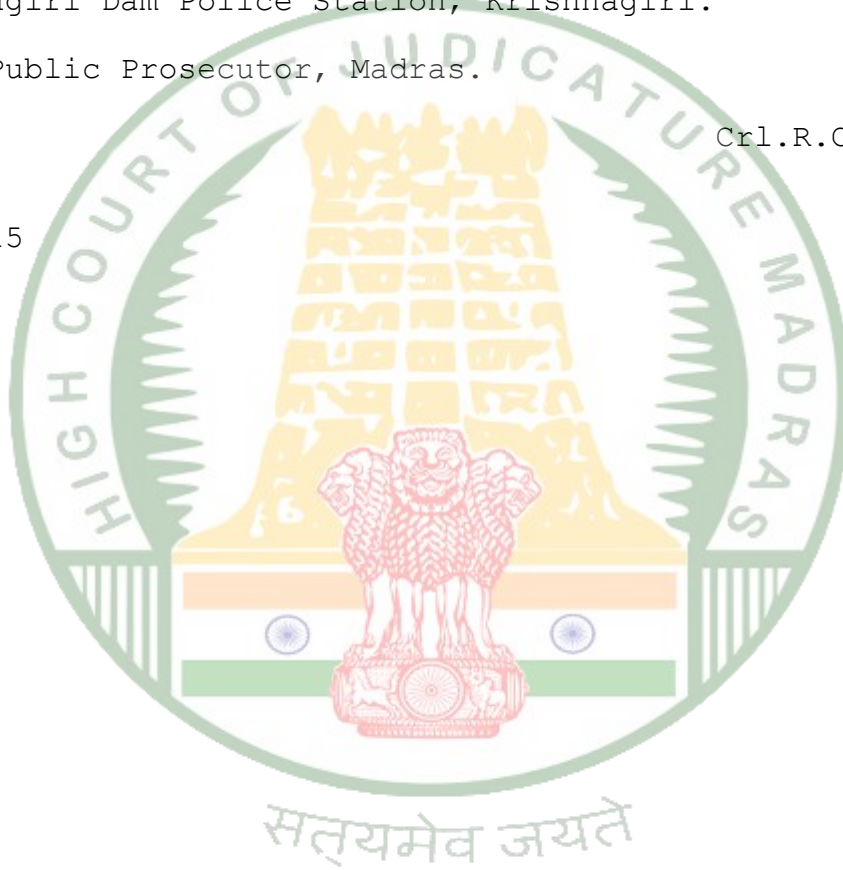
vj2

To

1. The Principal District and Sessions Judge,
Krishnagiri
2. The Chief Judicial Magistrate,
Krishnagiri, Krishnagiri District
3. The Superintendent, Central Prison,
Vellore.
4. The Sub Inspector of Police,
Krishnagiri Dam Police Station, Krishnagiri.
5. The Public Prosecutor, Madras.

Crl.R.C. No.964 of 2010

GJ(CO)
Eu 25.06.15



WEB COPY