

Bail Slip

The Accused Kuppurathinam, W/o.Karuppusamy was Released on bail as per the order of Hon'ble Court, dated 28.07.2011 made in M.P.No.1 of 2011.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2016

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.R.C.No.837 of 2011

Kuppurathinam

.... Petitioner

vs

State of Tamil Nadu,
Rep. By the Inspector of Police,
B-10, Police Station,
Coimbatore District,
(Crime No.1474 of 2009)

.... Respondent

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, against the judgment dated 26.04.2011 passed in C.A.No.21 of 2011 on the file of the learned Additional District and Sessions Judge, (Fast Track Court No.I), Coimbatore confirming the judgment dated 11.01.2011 passed in C.C.No.171 of 2010 on the file of the learned Judicial Magistrate No.V, Coimbatore.

For Petitioner : Mr.S.Subbiah

For Respondent : Mrs.M.F.Shabana

Government Advocate(Crl. Side)

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O R D E R

This revision has been filed against the conviction. The sole accused in C.C.No.171 of 2010 on the file of the learned Judicial Magistrate No.V, Coimbatore is the petitioner herein. She stood charged for the offence under Section 324 and 294-B of IPC. After elaborate trial, the trial Court convicted the accused under Section 324 IPC and sentencing her to undergo two months rigorous imprisonment and to pay a fine of Rs.1,000/- in

default to undergo simple imprisonment for one month, and acquitted the petitioner under Section 294-B IPC. Challenging the above said conviction and sentence, the petitioner has filed a Criminal Appeal in C.A.No.21 of 2011 on the file of the learned Additional District and Sessions Judge, (Fast Track Court No.1), Coimbatore. The appellate Court, by its judgment dated 26.04.2011, dismissed the appeal, confirming the judgment passed by the Trial Court. Challenging the above conviction and sentence, the petitioner preferred this present criminal revision case.

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

P.W.1 is the injured witness, and she constructed a new house at Arumuga Udaiyar Street, Telungupalayam. On 20.12.2009 at about 11.00 a.m., when she was standing near the newly constructed house, one Manivannan has taken photograph of the house. When P.W.1 questioned the same, the petitioner/accused, scolded her with filthy language, and she started cleaning the bushes standing near P.W.1's house. When P.W.1 questioned the same, the petitioner/accused cut her with sickle in the left wrist and immediately she was taken to the Government Medical College Hospital, Coimbatore. P.W.5, Doctor, working in the Government Medical College Hospital, Coimbatore, has given treatment to her and issued Accident Register Ex.P2. Subsequently, P.W.1 went to the respondent police station and lodged a complaint[Ex.P1]. P.W.9, the Inspector of Police, working in the respondent police station, based on the complaint given by P.W.1, registered a case in Crime No.1474 of 2009, for the offences under Sections 324 and 294-B IPC, prepared first information report[Ex.P5] commenced the investigation, proceeded to the scene of occurrence, prepared Observation Mahazar Ex.P6, drew a Rough Sketch Ex.P7. On the same day at about 7.30 p.m., he arrested the accused and remanded her to Judicial custody. Thereafter, he examined the witnesses and recorded their statements and after completion of investigation, he laid charge sheet before the Jurisdictional Court.

3. Based on the above materials, the Trial Court framed charges as detailed above and the accused denied the same as false. In order to prove the case of prosecution, as many as 9 witnesses were examined and 7 documents were exhibited and one material object was marked.

4. Out of the said witnesses examined, P.W.1 is the injured witness. According to her, she constructed a new house at Arumuga Udaiyar Street, Telungupalayam. On 20.12.2009 at about 11.00 a.m., when she was standing near the newly constructed house, one Manivannan has taken photograph of the house and when she was questioned the same, the petitioner/accused, scolded her

with filthy language and then she started cleaning the bushes standing near P.W.1's house. When she questioned the same, the petitioner/accused cut her with sickle in the left wrist, immediately she was taken to the Government Medical College Hospital, Coimbatore. Subsequently, she went to the respondent police station and lodged a complaint[Ex.P1]. P.W.2 is son-in-law of P.W.1. He is an eye witness to the occurrence. According to him, on the date of occurrence, he saw the occurrence and he taken P.W.1 to the Hospital and in his presence P.W.1 has given complaint to the respondent police. P.Ws.3 and 4 are also an eye witness to the occurrence. P.W.5, the Doctor, working in the Coimbatore Medical College Hospital, Coimbatore, who admitted P.W.1 in the Hospital, gave treatment and he issued wound certificate[Ex.P2]. P.W.6 is the villager of Telungupalayam, he is only a hearsay evidence. P.W.7 is the Villager of Telungupalayam. He is witness to the Observation Mahazar and recovery of sickle. P.W.8 is another Villager of Telungupalayam. He is also witness to the Observation Mahazar and recovery of sickle. P.W.19, the Inspector working in the respondent police station, on receipt of the complaint from P.W.1, registered the case, proceeded to the scene of occurrence, prepared observation mahazar, rough sketch and examined the witnesses recorded their statements and arrested the accused, remanded her to judicial custody, and after completing the investigation, he laid charge sheet.

5. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., she denied the same as false. Her defence was a total denial. The accused did not examine any witness and no document was marked on her side.

6. After elaborate trial, the trial Court convicted the accused under Section 324 IPC and sentencing her to undergo two months rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for one month and acquitted the accused under Section 294-B IPC. Challenging the above said conviction and sentence, the petitioner has filed a Criminal Appeal in C.A.No.21 of 2011 on the file of the learned Additional District and Sessions Judge, (Fast Track Court No.1), Coimbatore. The appellate Court, by its judgment dated 26.04.2011, dismissed the appeal, by confirming the judgment passed by the Trial Court. Challenging the above conviction and sentence, the petitioner preferred this present criminal revision case.

7. The learned counsel appearing for the petitioner/accused would submit that except P.W.1, the injured witness, there is no other eye witnesses to the occurrence. Even in the evidence of P.W.1, there are lot of contradictions. As per the evidence of P.W.1, she has given statement in the Hospital and the statement

was also recorded in the hospital. But, P.W.9, the Investigating Officer says that the complaint has been given by the petitioner in the respondent police station. Even as per the evidence of P.W.5, Doctor, at the time of admitting P.W.1, P.W.1 says that one known lady cut her with sickle. In absence of any eye witnesses to the occurrence, it is unsafe to believe the evidence of P.W.1. Hence, he prays for allowing the revision case and acquittal of the accused.

8. Per contra, the learned Government Advocate(Crl. Side) would contend that P.W.1 is the injured witness. Immediately after the occurrence, he was taken to the hospital, where he has clearly stated that one known lady cut her with sickle. Subsequently, the weapon was also recovered by the Investigating Officer in the scene of occurrence in the presence of witnesses. There is a civil dispute between the accused and P.W.1 and only due to the same, the occurrence had taken place. The witnesses also clearly spoke about the motive, hence the motive was also established. In the above circumstances, there is no valid reason to disbelieve the evidence of P.W.1, the injured witness. Hence, she sought for dismissal of the revision case.

9. I have carefully considered the rival submissions and perused the materials available on record.

10. P.W.1 is the injured witness and the occurrence said to have taken place on 20.12.2009 at about 11.00 a.m., immediately P.W.1 was taken to the hospital. P.W.5 is the Doctor working in the Government Medical College Hospital, Coimbatore examined P.W.1 and issued wound certificate Ex.P2. At the time of admission, P.W.1 clearly stated that she was attacked by a known women. In the wound certificate, it was found that there are three cut injuries in the left wrist, she was treated as out patient and immediately discharges from the hospital. Thereafter, the complaint was given only at about 5.00 p.m. in the evening. But, there was no explanation by the prosecution for the 6 hours delay in filing the First Information Report. Apart from that P.W.1 has stated that when she was taken treatment in the Government Medical College Hospital, when the respondent police has examined her and recorded the statement and obtained signature in the complaint. But, as per the evidence of P.W.9, the Inspector of Police, on 20.12.2009 at about 5.00 p.m., P.W.1 came to the police station and given a oral statement and he recorded the same and registered the complaint. But, there is no explanation by the prosecution about the earlier complaint given by the petitioner, which creates doubt about the prosecution case. In the above circumstances, it is highly unsafe to rely upon the evidence of P.W.1, to convict the accused. In the above circumstances, this Court is of the considered view that the prosecution did not

prove its case beyond reasonable doubt, and the accused is entitled for acquittal. The Courts below without considering the evidence in proper perspective convicted the petitioner.

11. In the result, this Criminal Revision is allowed. The conviction and sentence passed by the learned District and Sessions Judge, (Fast Track Court No.I), Coimbatore, dated 26.04.2011 made in C.A.No.21 of 2011 is set aside and the petitioner/accused is acquitted. Bail bond, if any, executed by her shall stand cancelled and the fine amounts paid by her is ordered to be refunded, forthwith.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District and Sessions Judge,
Fast Track Court No.I,
Coimbatore.
2. Thro' The Principal Sessions Judge,
Coimbatore.
3. The Judicial Magistrate No.V,
Coimbatore.
4. Thro' The Chief Judicial Magistrate,
Coimbatore.
5. The Inspector of Police,
B-10, Police Station,
Coimbatore District,
6. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Subbiah, Advocate, S.R.No.73815

Cr1.R.C.No.837 of 2011

LRS(CO)
CS/20/06/17