

BAIL SLIP

The Appellants/Accused 1 to 3 were directed to be released on bail in and by the Order of this Court dated 16.09.2009 made in CrI.M.P.No.1 of 2009 in CrI.A.No.550 of 2009 on the file of the High Court of Madras.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

CrI.A.No.550 of 2009

1. Mathan Kumar

2. Mathi Kumar

3. Mohan

... Appellants/Accused 1 to 3

Vs.

State represented by

The Inspector of Police,

Dharmapuri Town Police Station,

Dharmapuri District.

(Crime No.1186 of 2004)

... Respondent/Complainant

Criminal Appeal filed under Section 374(2) Cr.P.C. against the judgment dated 02.09.2009 in S.C.No.195 of 2006 on the file of the Additional Sessions Court / Fast Track Court, Dharmapuri.

For Appellant : Mr.C.R.Malarvannan

For Respondent : Mr.P.Govindarajan,
Additional Public Prosecutor

JUDGMENT

The appellants are A-1 to A-3 in S.C.No.195 of 2006 on the file of the Additional Sessions Court / Fast Track Court, Dharmapuri. They were convicted for the offence under Section

324 IPC and sentenced to undergo rigorous imprisonment for two years each and to pay a fine of Rs.1,000/- each, in default, each of them to undergo simple imprisonment for six months.

2. It is the case of the prosecution that A1 and A2 are brothers and A3 is the friend of A1 and A2. Prior to the date of occurrence, P.W.1 paid a sum of Rs.25,000/- to A1 for caution deposit to the Reliance India Limited as collection agent. Subsequently, A1 did not pay the amount to the said Reliance India Limited. Therefore, P.W.1 insisted for repayment of the amount and since A1 did not repay the amount, enmity developed between P.W.1 and A1. Due to previous enmity between P.W.1 and all the accused/A1 to A3 with regard to non-payment of the amount, on 10.10.2004 at about 18 hours, A1 to A3, with common intention to cause the death of P.W.1, attacked P.W.1. A2 and A3 caught hold of P.W.1 and A1 voluntarily assaulted P.W.1 with "Kuthu Vilakku" (lamp with vertical brass stand), due to which, P.W.1 sustained injuries on his head, shoulders, neck, nose and cheek. A1 to A3 threatened P.W.1 with dire consequences. Though charge was framed against A1 to A3 for the offence under Section 307 IPC, the trial Court came to the conclusion that P.W.1 has sustained only simple injuries and therefore, the trial Court convicted and sentenced appellants/A1 to A3 for the offence under Section 324 IPC as stated supra.

3. When the appeal is taken up for hearing, learned counsel for the appellants/A1 to A3 submitted that considering the nature of the offence, he is arguing the appeal only on the question of sentence imposed on the appellants/A1 to A3 and not on the merits of the case. He prayed that the sentence of imprisonment imposed on the appellants, may be modified to the period of sentence already undergone by the appellants and the fine amount may be enhanced.

4. Heard both sides.

5. Considering the nature of the offence as well as considering the fact that about seven years have lapsed from the date of filing of this appeal, I am of the opinion that at this distant point of time, it would not be appropriate to confirm the sentence of imprisonment and instead, the fine amount could be enhanced. Accordingly, the sentence of imprisonment imposed on the appellants/A1 to A3 is modified to the period of sentence already undergone by them. Consequently, this Court enhances the fine amount imposed on each of the appellants/A1 to A3 from Rs.1,000/- to Rs.5,000/- (Rupees five thousand only) each, in default, each of them shall undergo simple imprisonment for three months.

6. With the above observations, the appeal is partly allowed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Sessions Judge
/Fast Track Court,
Dharmapuri.
2. Do- Through The Principal District Judge,
Dharmapuri.
3. The Inspector of Police,
Dharmapuri Town Police Station,
Dharmapuri District.
(Crime No.1186 of 2004)
4. The Judicial Magistrate No.I,
Dharmapuri.
5. Do- Through The Chief Judicial Magistrate,
Dharmapuri. (For Information)
6. The District Collector,
Dharmapuri.
7. The Director General of Police,
Mylapore, Chennai.
8. The Public Prosecutor,
High Court, Madras.
9. The Record Keeper,
Criminal Section,
High Court, Madras.

+1cc to Mr.N.Mohideen Basha, Advocate, S.R.No.39748

CrI.A.No.550 of 2009

AK(CO)
CA(02/08/2016)