

Bail Slilp

The Appellants/Accused 1 to 3 namely 1.Joseph S/o Jjebaraj, 2.M.Deva @Devendran S/o Maruthan, 3.J.Babu S/o John were directed to be released on bail vide order dated 02.08.2011 in MP 1/11 in CRL RC No.1021/2011.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2017

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.R.C.No.1021 of 2011

1.Joesph
2.M.Deva @ Devendran
3.J.Babu

... Petitioners

vs

State
Rep. by the Inspector of Police,
Podanur Railway Police Station,
Podanur.
(CrimeNo.238 of 2007)

... Respondent

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, against the judgment dated 03.06.2011 passed in C.A.No.250 of 2010 on the file of the learned Additional District and Sessions Judge, (Fast Track Court No.III), Coimbatore modifying the judgment dated 11.11.2010 passed in C.C.No.928 of 2007 on the file of the learned Judicial Magistrate No.VI, Coimbatore.

For Petitioners : Mr.L.Mahendran

For Respondent : Mrs.M.F.Shabana
Government Advocate(Crl. Side)

O R D E R

The accused 1 to 3 in C.C.No.928 of 2007 on the file of the learned Judicial Magistrate No.VI, Coimbatore are petitioners herein. The petitioners stood charges for the offence under Section 323 of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act,1998. After trial, the trial Court convicted the petitioners/accused under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act,1998 and sentencing them to undergo one year simple imprisonment, and to pay a fine of Rs.10,000/- each, in default to undergo simple imprisonment for two months and acquitted them for the offence under Section 323 IPC. Challenging the above said conviction and sentence, the petitioners have filed a Criminal Appeal in C.A.No.250 of 2010 on the file of the learned Additional District and Sessions Judge, (Fast Track Court No.III), Coimbatore. The appellate Court, by its judgment dated 03.06.2011, dismissed the appeal, by confirming the judgment, however modifying the sentence to undergo three months simple imprisonment and to pay a fine of Rs.10,000/- each in default to undergo two months simple imprisonment. Challenging the above conviction and sentence, the petitioners preferred this present criminal revision case.

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

P.W.2 is a victim in this case. On 17.06.2007 at about 6.30 p.m., both P.Ws.1 and 2 went to Podanur Railway Station to board a train to Dindugul. At the station, P.W.2 went to the rest room. At that time, all the accused, who are employed in Railway Station were in a drunken mood, abused P.W.2 calling her as country girl. The another person, namely, Raja, a Taxi Driver standing there questioned them, and the accused abused the victim girl and all the accused attacked the above said Raja and caused injury to him. Immediately, P.W.2 report the same to her father/P.W.1. Then both went to the Podanur Railway Police Station, and informed the same to P.W.3, the Head Constable working in the Railway Police Station. Immediately, P.Ws.3 and 4 reached the Platform No.4, where they saw all the accused attacked the above said Raja. P.W.3 with the help of P.W.4/another constable took all the accused to police station and handed over them to the Inspector of Police. P.W.2 lodged a complaint[Ex.P1] to the respondent police. P.W.8, the Inspector of Police, working in the respondent police station, on receipt of the complaint, registered a case in Crime No.238 of 2007 for the offences under Section 323 IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act,1998 and prepared first information report. Then, P.W.8 recorded the statements of P.Ws.3 and 4. He sent injured Raja to the Medical College Hospital, Coimbatore for taking treatment. Thereafter, he arrested the accused and remanded them to judicial custody.

Subsequently, he went to the scene of occurrence, prepared observation mahazar[Ex.P2], Rough Sketch[Ex.P6] and he examined the witnesses and recorded their statements. Then, he went to the Hospital and examined the Doctor, who gave treatment to the injured, and other witnesses and recorded their statements, after completing the 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 7 witnesses were examined and 6 documents were marked.

4. Out of the said witnesses examined, P.W.1 is the father of P.W.2/victim girl. According to him, on 17.06.2007 at about 6.30 p.m., he along with P.W.2 went to Podanur Railway Station for boarding train to Dindugul and they were waiting Platform No.4. At the time, P.W.2 went to the rest room, at that time, all the accused standing there and orally abused her. Then, P.W.2 informed the same to P.W.1, when he questioned them, the accused threatened him. Immediately, he went to the Railway Police Station and inform the same to the police. When P.Ws.1 and 2 and Railway Police reached the Platform No.4, and saw that the accused attacked injured Raja. Immediately, the Railway Police took them to the police station and handed over to the Inspector of Police. He has given complaint to the respondent police. P.W.2 is the victim girl. According to her, at the time of occurrence, she went to the rest room, all the accused standing there and they are orally abused and insulted her. Then, she report the same to her father/P.W.1. When her father questioned the accused, they threatened him. At that time, one unknown person, questioned the accused, they have attacked that person, he got injuries. Then, P.W.1 has given a complaint to the respondent police station. P.W.3, the Constable working in Railway Protection Force. According to him, when P.Ws.3 and 4 patrol in Platform No.4, P.W.1 informed him that some unknown persons attacked a person. Immediately, he went there and took the accused to the police station. On enquiry, they came to know that when the above said injured person questioned the accused, they abused and insulted P.W.2, all the three accused attacked him. P.W.4 is another constable working in Railway Protection Force. According to him, P.W.1 informed him that some three persons were abused his daughter and also insulted her. When he went to Platform No.4, he saw all the accused attacked one Raja, a Taxi driver. P.Ws.3 and 4 took the accused to the police station and handed over them to the Inspector of Police. P.W.1 has given a complaint to the respondent police station. P.W.5 is the witness to the observation mahazar. P.W.6 is the Doctor, who treated the injured Raja. According to him, he admitted the injured person, namely, Raja and at the time of admission in the hospital, he told him that three unknown

persons attacked him with stone. He was given first aid and admitted him in the hospital, and on the next day without informing the Hospital Authorities, he left the Hospital. P.W.7, the Inspector of Police, working in the respondent police station. According to him, on receipt of the complaint from P.W.1, he registered a case in Crime No.238 of 2007 for the offence under Section 323 IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998. Subsequently, P.Ws.3 and 4 produced the accused along with special report. He recorded the statements of P.Ws.3 and 4 and arrested the accused and sent them to the judicial custody. Then, P.W.7 examined P.Ws.1 and 2 and other witnesses and recorded their statements and after completion of investigation, he laid charge sheet before the jurisdictional Court.

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

6. After elaborate trial, the trial Court convicted the accused for the offences as stated in first paragraph of this judgement. Challenging the above said conviction and sentence, the petitioners have filed a Criminal Appeal in C.A.No.250 of 2010 on the file of the learned Additional District and Sessions Judge, (Fast Track Court No.III), Coimbatore. The appellate Court, by its judgment dated 03.06.2011, dismissed the appeal, by confirming the conviction, however modified the sentence to under go three months simple imprisonment and to pay a fine of Rs.10,000/- each in default to undergo simple imprisonment for two months. Challenging the above conviction and sentence, the petitioners preferred this present criminal revision case.

7. I have heard Mr.L.Mahendran, the learned counsel appearing for the revision petitioner and Mrs.M.F.Shabana, the learned Government Advocate (Crl. Side) appearing for the respondent.

8. P.W.2 is the victim girl in the above crime. According to her, she along with her father/P.W.1 went to Podanur Railway Station for boarding train to Dindugul. When her father was waiting in platform No.4, she went to the rest room, at that time all the accused orally abused and insulted her and they were saying she is a country girl. Immediately, she report the same to her father/P.W.1. When P.W.1 questioned them, but they threatened him. Then, one unknown person standing near questioned them, they have attacked him and caused injuries. Immediately, P.Ws.1 and 2 informed the same to the Railway protection Force Police and two constables came to the scene of

occurrence and took the accused to the police station. Thereafter, P.W.1 lodged a complaint before the respondent Police Station. P.W.1 is father of victim girl. P.Ws.3 and 4 are constables working in the Railway Protection Force. It is their evidence that P.W.1 informed them that some unknown persons abused her daughter orally and insulted her. When he along with P.Ws.2,3 and 4 went there, the accused attacked one unknown person for the reason that when he questioned them why abused the victim girl. Immediately, P.Ws.3 and 4 took all the accused and produced them before the Inspector of Police/P.W.8. He arrested the accused. So it is consistent evidence of P.Ws.1 to 4 that all the accused orally abused P.W.2 and insulted her, when a stranger questioned them, they attacked him and caused injuries. Even though the injured person was not examined as witness. But, the evidence of P.Ws.1 to 4 clearly proved that all the accused committed the offence. Both the Courts below after considering the evidence proper perspective convicted the accused, and I find no infirmity or perversity in the finding of the Courts below. Hence, I am of the considered view that the prosecution has clearly established to guilt of the accused.

9. So far as the conviction is concerned, even though the trial Court convicted the accused and sentencing them to undergo one year simple imprisonment and to pay a fine of Rs.10,000/- in default to under go two months simple imprisonment. The appellate Court confirmed the conviction however modified the sentence to undergo three months simple imprisonment. Considering the above facts and circumstances, the accused are young men, no prior antecedence, they have chance to reform and they have also being family and to look after that they are also employed in Railway Department. Considering the fact that they were already inside the jail for more than 10 days and in the interest of justice, the sentence is modified to the period already undergone.

10. In the result, the criminal revision is partly allowed and the conviction of the appellant by the Courts below is confirmed, and the sentence is modified to the period already undergone and to pay a fine of Rs.10,000/- each in default to under go two months simple imprisonment.

sd/

Assistant Registrar(CS VI)

/true copy/

Sub Assistant Registrar

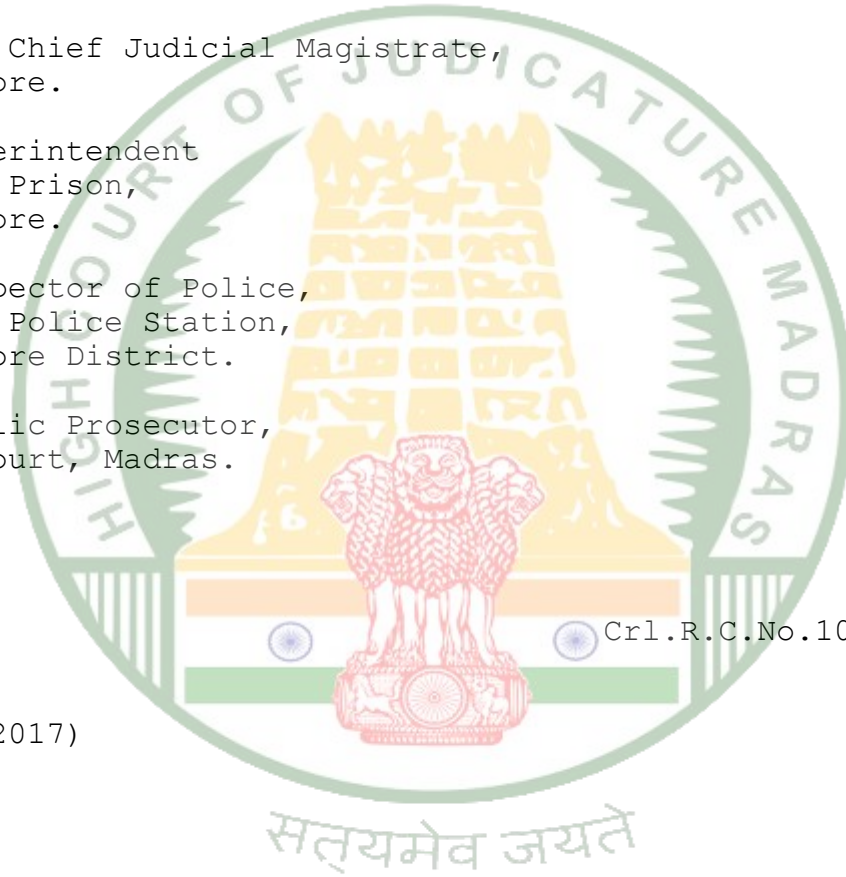
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To

- 1.The Additional District and Sessions Judge,
(Fast Track Court No.III),
Coimbatore.
- 2.The Principal District and Sessions Judge,
Coimbatore.
- 3.The Judicial Magistrate No.VI,
Coimbatore.
- 4.Do Thro Chief Judicial Magistrate,
Coimbatore.
- 5.The Superintendent
Central Prison,
Coimbatore.
- 6.The Inspector of Police,
Podanur Police Station,
Coimbatore District.
- 7.The Public Prosecutor,
High Court, Madras.

MG (CO)
GN (08/02/2017)

Cr1.R.C.No.1021 of 2011



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