

BAIL SLIP

The appellant/Petitioner/Accused namely Murugesan S/O. Ramajeyan was directed to be released on Bail as per the order of this court dated 23/09/2011 made in Cr1.MP.2 of 2011 in Cr1.R.C.No.1234/2011 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2017

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Cr1.R.C.No.1234 of 2011

Murugesan

S/o.Ramajeyan

... Petitioner/Accused

-Vs-

State rep. by
Inspector of Police,
Kilaiyur Police Station,
Nagapattinam Taluk and District.
Crime No.299 of 2006.

... Respondent/Complainant

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure against judgment dated 20.07.2011 passed by learned District and Sessions Judge, Nagapattinam, passed in C.A.No.87 of 2008 by modifying the judgement in C.C.No.501 of 2005 dated 05.12.2008 on the file of learned Judicial Magistrate-II, Nagapattinam.

For Petitioner : Mr.S.Vadivel Murugan

For Respondent : Mr.V.Arul

Additional Public Prosecutor

O R D E R

This Criminal Revision Case arises against judgment of learned District and Sessions Judge, Nagapattinam, passed in C.A.No.87 of 2008 on 20.07.2011. The petitioner stood trial for offences under Sections 324 and 506(ii) IPC in case tried in C.C.No.501 of 2005 on the file of learned Judicial Magistrate-II, Nagapattinam.

2. Prosecution case is that on 01.05.2005 at about 9.30.am., the petitioner/accused questioned PW-2 on why he had not completed the painting job entrusted to him. PW-1 who is the brother of PW-2 intervened and informed that PW-2 would complete the task. However, an argument ensued and in the course thereof, the petitioner/accused caused several cut injuries to PW-1. A case in Crime No.109 of 2005 on the file of respondent police was registered for offences under Sections 324 and 506(ii) IPC against the petitioner/accused. Upon completion of investigation and filing of charge sheet informing commission of offences u/s.324 and 506(ii) IPC, the case was tried in C.C.No.501 of 2005 on the file of learned Judicial Magistrate-II, Nagapattinam.

3. Before the trial Court, the prosecution examined nine witnesses and marked five exhibits. None were examined on behalf of the defence nor were any exhibits marked. On appreciation of materials before it, trial Court, under judgment dated 05.12.2008, convicted the accused for offences under Sections 324 and 506(ii) IPC and sentenced him to one year R.I., and fine of Rs.3,000/- i/d six months S.I. for offence under Section 324 IPC and six months S.I and fine of Rs.1,000/- i/d 3 months S.I for offence under Section 506(ii) IPC. There against, the petitioner/accused preferred an Appeal in C.A.No.87 of 2008 on the file of learned District and Sessions Judge, Nagapattinam and under judgment dated 20.07.2011, the Appellate Court found appellant guilty of offence under Section 324 IPC alone and reduced the sentence from One year R.I. to three months S.I. for such offence and maintained the fine imposed and acquitted the petitioner/accused of offence under Section 506(ii) IPC. Hence, this Revision by the accused.

4. Heard learned counsel for petitioner and learned Additional Public Prosecutor.

5. The trial Court has doubted the presence of PW-2 at the scene, since it found tenable the submission of defence that if he has been present when PW-1 suffered injuries, PW-2 would have gone to his aid and resultantly his clothes would have become blood stained. That PW-2 brother of PW-1 stood nearby while he was bleeding of his injuries was quiet unnatural.

6. Given the position that no blood stained clothes whatsoever have been marked as Material Objects in this case, this Court would concur with the trial Court on such aspect. Even so, the trial Court, as also the Appellate Court have rendered findings of conviction and apparently going by the injuries suffered by PW-1. It is true that an injured witness normally would not depose falsely and thereby allow his

assailant to go free. However, Courts below have failed to see that when the presence of PW-2 brother of PW-1/injured, is doubtful and PW-7 the owner of the shop adjacent to the scene and who has been examined as an eye-witness of the occurrence, has turned hostile, the genesis and the manner in which PW-1 came to suffer injuries becomes doubtful and the benefit of such doubt ought to be afforded to the petitioner/accused.

7. The Criminal Revision Case shall stand allowed. The judgment dated 20.07.2011 passed by learned District and Sessions Judge, Nagapattinam, passed in C.A.No.87 of 2008 by modifying the judgment in C.C.No.501 of 2005 dated 05.12.2008 on the file of learned Judicial Magistrate-II, Nagapattinam, shall stand set aside. Petitioner/accused is acquitted of all charges. Fine, if any, paid shall be refunded. Bail bonds, if any, executed shall stand cancelled.

Sd/-

ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

- 1.The District and Sessions Judge,
Nagapattinam.
- 2.The Judicial Magistrate-II,
Nagapattinam.
- 3.The Inspector of Police,
Kilaiyur Police Station,
Nagapattinam Taluk and District.
4. The Superintendent, Central Prison, Trichy
- 5.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr. Mr.S.Vadivel Murugan Advocate SR.NO.61830

Cr1.R.C.No.1234 of 2011

VC (16/11/2017)