

Bail Slip

The Accused Kannan S/o N. Ranganathan and Sakthivel, S/o Srinivasan petitioners in Crl.RC.824/2011 were directed to be released on bail as per the order of this Court dated 20.06.2011 made in M.P.No.1/2011 in Crl.R.C.No.824/2011.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2017

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.R.C.No.824 of 2011

1.Kannan
2.Sakthivel

.... Petitioners

vs

State
Rep. by the Inspector of Police,
B-9, Saravanampatti Police Station,
Coimbatore.
(CrimeNo.167of2008)

.... Respondent

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, against the judgment dated 31.03.2011 passed in C.A.No.17 of 2011 on the file of the learned Additional District and Sessions Judge, (Fast Track Court No.I), Coimbatore confirming the judgment dated 22.12.2010 passed in C.C.No.319 of 2008 on the file of the learned Judicial Magistrate No.II, Coimbatore.

For Petitioners: Mr.R.Rajasekaran

For Respondent : Mrs.M.F.Shabana

Government Advocate(Crl. Side)

O R D E R

The accused 1 and 2 in C.C.No.319 of 2008 on the file of the learned Judicial Magistrate No.II, Coimbatore are petitioners herein. The first petitioner stood charged for the offence under Section 326 and 506(ii) of IPC and the second petitioner stood charged for the offence under Section 326 of IPC. After trial, the trial Court convicted the

petitioners/accused under Section 326 IPC and sentencing them to undergo one year rigorous imprisonment and to pay a fine of Rs.500/- each in default to undergo rigorous imprisonment for two months and acquitted the first petitioner for the offence under Section 506(ii) IPC. Challenging the above said conviction and sentence, the petitioners have filed a Criminal Appeal in C.A.No.17 of 2011 on the file of the learned Additional District and Sessions Judge, (Fast Track Court No.I), Coimbatore. The lower appellate Court, by its judgment dated 31.03.2011, dismissed the appeal, thereby confirming the judgment of the trial Court. 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:-

The first petitioner/first accused is brother-in-law of the second petitioner/second accused. P.Ws.1 and 2 are brothers of first accused. There was a civil dispute exist between them regarding the partition of the property. On 22.02.2008 at about 6.00 p.m., P.Ws.1 and 2 went to their father's (P.W.3) house to resolve the civil dispute. At that time, both the accused were present and there was a quarrel between themselves, during the quarrel, first accused pushed the second accused, at that time, P.W.2 took a wooden log available there and immediately, the first accused snatched the wooden log and attacked P.W.2 on the head and caused injuries. The second accused also attacked P.W.2 with a handle of spade and he fell down. Immediately, the accused took him to one Suriya Hospital, Coimbatore. Thereafter, he was referred to Ramakrishna Hospital, Coimbatore. Then, he was taken to the Government Medical College Hospital, Coimbatore, where he was admitted by P.W.7, the resident Medical officer and he also issued Accident Register [Ex.P6]. Thereafter, P.W.4, the wife of the injured P.W.2 went to the police station on the next day, namely, on 23.02.2008 and filed a complaint.

(ii) P.W.8, the Inspector of Police, in the respondent police station, on receipt of the complaint, registered a case in Crime No.167 of 2008 for the offences under Sections 326 and 506(ii) IPC and prepared first information report[Ex.P7]. Then, he commenced investigation, proceeded to the Ramakrishna Hospital, where P.W.2 was admitted in ICU ward, and he recorded the statement of P.W.4. Subsequently, he proceeded to the scene of occurrence, prepared Observation Mahazar[Ex.P8], Rough Sketch [Ex.P9] and seized wooden log[M.O.1] and handle of spade[M.O.2] in the presence of witnesses. Thereafter, P.W.8 came to know that the accused surrendered before the Judicial Magistrate Court. On 25.02.2008, he examined the Doctor, who has given treatment to P.W.2, and other witnesses, 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 8 witnesses were examined and 10 documents and 2 material objects were marked.

4. Out of the said witnesses examined, P.W.1 is brother of P.W.2 and first accused. According to him, there was a civil dispute between P.Ws.1 P.W.2 and the first accused. On the date of occurrence P.Ws.1 and 2 went to their father's house, where, the accused were present, and there was a wordy quarrel between them, at that time the first accused pushed P.W.2 and he fell down. P.W.2 took a wooden log available there, the first accused snatched the wooden log and attacked P.W.2 and caused serious injuries. At that time, the second accused also attacked P.W.2 with a handle of spade indiscriminately. Immediately, they took him to one Suriya Hospital. Thereafter, he was referred to Ramakrishna Hospital, Coimbatore. On the next day, they have given a complaint. P.W.2 is injured witness. According to him, on the date of occurrence, due to some civil dispute, P.Ws.1 and 2 went their father's house and questioning their father regarding effecting electricity connection, at that time, the accused were present and threatened him, and there was a wordy quarrel between them. At that time, A-1 pushed P.W.2 and hence he took a wooden log, immediately, A-1 snatched the wooden log and attacked him. In the meantime, A-2 standing there, attacked him with a handle of spade. He was unconscious and admitted in one Suriya Hospital then he was referred to Ramakrishna Hospital. P.W.3 is father of A-1 and P.Ws.1 and 2. He turned hostile. P.W.4 is wife of P.W.2. According to her, on 22.08.2008, he called P.W.2 over the phone but, A-2 attended the phone and informed her that, P.W.2 met with an accident while he was riding the motor cycle and he was admitted in Suriya Hospital. Thereafter, P.W.1 informed her that the accused attacked P.W.2 and he sustained serious injuries and he was admitted in the Ramakrishna Hospital. At the time of admission, the accused told the Doctor that P.W.2 met with an accident, while he was driving a scooter in an intoxicate mood. On the next day morning she has given complaint to the respondent police. P.W.5 turned hostile. P.W.6 turned hostile. P.W.7, the Doctor, working in the Government Medical College Hospital, Coimbatore, he admitted P.W.2 in the Hospital and issued accident register. According to him, at the time of admission, the second accused took P.W.2 to the hospital and he told him that two known persons and five unknown persons attacked him with wooden log in front of his house. P.W.8 is Inspector of Police. On receipt of the complaint, he registered a case, conducted the investigation, examined the witnesses and recorded their statements, seized the material objects and after

completion of investigation, he laid charge sheet.

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 examined two witnesses 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.17 of 2011 on the file of the learned Additional District and Sessions Judge, (Fast Track Court No.I), Coimbatore. The appellate Court, by its judgment dated 31.03.2011, dismissed the appeal, confirming the conviction and sentence imposed by the trial Court. Challenging the above conviction and sentence, the petitioners preferred this present criminal revision case.

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

8. A-1, P.Ws.1 and P.W.2 are brothers. P.W.3 is their father. Admittedly, there was a civil dispute between the first accused and P.Ws.1 and 2. On the date of occurrence, both P.Ws.1 and 2 went to P.W.3's house and questioned him regarding electricity service connection given to A-1 at that time, the accused were also present and there was a wordy quarrel between them. At that time, the first accused pushed P.W.2, P.W.2 took wooden log, and immediately, the first accused snatched the same and attacked P.W.2 and caused serious injuries. The second accused also attacked P.W.2 with a handle of spade. The occurrence took place on 22.02.2008 at about 6.00 p.m., immediately, P.W.2 was taken to the hospital by A-2, where, P.W.7, the Doctor working in the Government Hospital admitted P.W.2, at that time, P.W.2 told him that two known persons and five unknown persons were attacked him in front of his house. P.W.7 also issued accident register Ex.P6. Subsequently, he was taken to Ramakrishna Hospital, Coimbatore, where he was taken treatment. Then, on the next day, namely, 23.02.2008 at about 1.30 p.m., P.W.4, the wife of P.W.2 went to the respondent police station and lodged a complaint. There is a delay of more than 20 hours in filing complaint. Apart from that the first information report reached the Judicial Magistrate Court only on 29.02.2008 at about 10.30 a.m., after 6 days after the registration of complaint. Absolutely, there is no explanation on the side of the prosecution for the delay in filing complaint and the delay of 6 days despatching of the same to the Judicial

Magistrate Court. Hence, the delay in filing first information report and reached same to the Judicial Magistrate Court creates doubt about the prosecution case. It is the case of prosecution that P.W.2 was taken to hospital only by A-2, where, P.W.2 told the Doctor that two known persons and five unknown persons attacked him in front of his house. Apart from that it is also the evidence of P.W.4 that at the time of admitting P.W.2 in Ramakrishna Hospital, it was stated that P.W.2, driven a scooter in an intoxicated mood and met with an accident. But, the Doctor, in the Ramakrishna Hospital, who has given treatment to P.W.2 was not examined by the prosecution. In the above circumstances, the delay in filing the complaint and also the delay in sending the first information report to the Judicial Magistrate Court create serious doubt about the prosecution case. Apart from that at the time of admission in the Hospital, P.W.2 told the Doctor that two known persons and five unknown persons attacked him in front of his house, to that effect the accident register was marked as Ex.P6 and the Doctor P.W.7 also examined, but the complaint was given only as against the accused 1 and 2. Considering the above facts and circumstances, this Court is of the considered view that the prosecution has not proved the case beyond any reasonable doubt, hence the accused are entitled for acquittal.

9. In the result, the criminal revision is allowed, the conviction and sentence imposed on the petitioner/accused dated 31.03.2011 passed in C.A.No.17 of 2011 on the file of the learned Additional District and Sessions Judge, (Fast Track Court No.I), Coimbatore, confirming the judgment dated 22.12.2010 passed in C.C.No.319 of 2008 on the file of the learned Judicial Magistrate No.II, Coimbatore stands set aside and the accused are acquitted. Bail bond, if any, executed by them shall stand cancelled and the fine amounts paid by them are ordered to be refunded, forthwith.

Sd/-
सत्यमेव जयते

Assistant Registrar

//True Copy//

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Sub Assistant Registrar

rrg

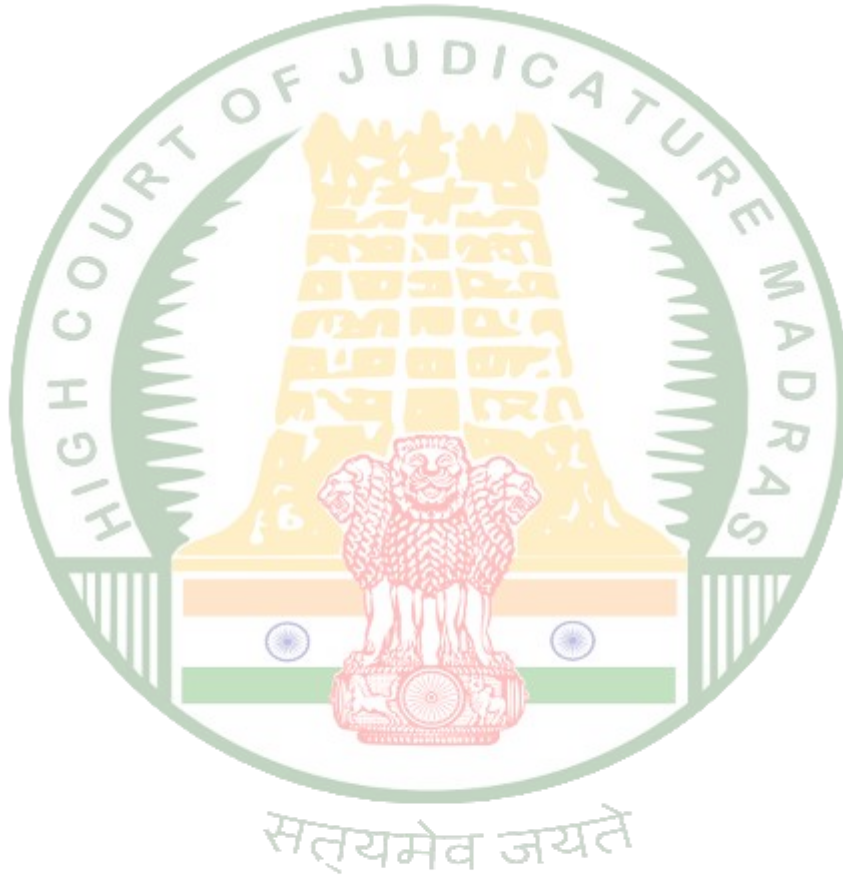
To

1.The Additional District and Sessions Judge,
(Fast Track Court No.I), Coimbatore.

2 Thru The Principal District and Sessions Judge, Coimbatore
3 The Judicial Magistrate No.II, Coimbatore.
4 Thro The Chief Judicial magistrate, Coimbatore
5 The Inspector of Police,B-9, Saravanampatti Police Station,
Coimbatore.
6 The Superintendent, Central Prison, Coimbatore

lrs (CO)
md(22/03/2017)

CrI.R.C.No.824 of 2011



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