

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2017

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.R.C.No.1174 of 2016

and

Crl.M.P.No.10432 and 10433 of 2016

N.Saravanakumar
S/o.Natesan

... Petitioner

VS

1.The State represented by
The Station House Officer,
Mandarakuppam Police Station,
Neyveli.
Crime No.215 of 2012

2.Kalaiselvan
S/o.Chinnasamy

3.Udayaselvan
s/o.Kalaiselvan

(Respondents 2 and 3 are impleaded
as per the order of this Court dated
07.02.2017)

... Respondents

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, against the judgment of learned III Additional District and Sessions Judge, Cuddalore, Vridhachalam, passed in C.A.No.10 of 2016 on 11.08.2016 confirming the judgment of learned Assistant Sessions Judge, Neyveli, passed in S.C.No.33 of 2013 on 03.02.2016.

For Petitioner : Mr.V.Krishnamoorthy

For Respondents : Mr.V.Arul
Additional Public Prosecutor [R1]
Mr.A.Arasu Ganesan [R2 & R3]

ORDER

This revision arises against two concurrent judgments of Courts below convicting petitioner/accused for offence u/s.326 IPC and sentencing him to 7 years R.I. and fine of Rs.3,00,000/- i/d 1 year R.I., fine to be paid as compensation to the victim.

2. Prosecution case is that on 11.06.2012, petitioner/accused was teased by PW-2 and his friends. Angered thereby, petitioner/accused struck a blow to the right eye using a metal bangle worn by him as a result of which PW-2, who already suffered from lack of vision in the left eye lost even that of the right. A case was registered in Crime No.215 of 2012 on the file of first respondent police for offences u/s.294(b) and 307 IPC. Upon completion of investigation and filing of charge sheet before learned District Munsif cum Judicial Magistrate, Neyveli, and on committal, the case was tried in S.C.No.33 of 2013 on the file of learned Assistant Sessions Judge, Neyveli.

3. Before trial Court, prosecution examined 13 witnesses and marked 11 exhibits. None were examined on the side of defence nor were any exhibits

marked. On appreciation of materials before it, trial Court, under judgment dated 03.02.2016, convicted petitioner/accused for offence u/s.326 IPC and sentenced him to 7 years R.I. and fine of Rs.3,00,000/- i/d 1 year R.I., which shall be paid as compensation to the victim. There against, petitioner/accused preferred an appeal in C.A.No.10 of 2016 on the file of learned III Additional District and Sessions Judge, Cuddalore, Vridhachalam, which came to be dismissed under judgment dated 11.08.2016. Hence, this revision.

4. Heard learned counsel for petitioner, learned Additional Public Prosecutor and learned counsel for respondents 2 and 3.

5. The case arose out of an unfortunate circumstance. Appellant and PW-2, injured, in the case were travelling on a bus on 11.06.2012, when petitioner/accused was teased by PW-2 and his friends. After witnessing a cultural programme at Cuddalore, petitioner/accused as also PW-2 were returning by the same bus. Petitioner/accused agitated over his having been teased earlier, approached PW-2 and questioned as to how he could have been teased without respect or regard for his age and further stating that PW-2 already has lost one eye should lose also the other, struck a blow to the right eye using a metal bangle worn by him as a result of which PW-2, who already suffered from lack of vision in the left eye also lost that of the right. The case of prosecution clearly stands proved by the evidence of PW-2, injured witness, as also other witnesses. Trial Court rightly has entered a finding of conviction.

However, keeping in mind the circumstances under which the offence took place, that there was absolutely no prior enmity between petitioner/accused and PW-2, that petitioner/accused presently is a married man with child, as is PW-2, that petitioner/accused has been in custody for a period of 45 days and exercise of powers u/s.482 Cr.P.C. would be to the benefit of both sides, this Court while confirming the conviction reduces the substantive sentence of imprisonment to the period already undergone and enhances the fine to one of Rs.8,00,000/-. Fine amount shall be paid as compensation to PW-2 in keeping with section 357 Cr.P.C. Pending this revision, petitioner has deposited a sum of Rs.3,00,000/- to the credit of S.C.No.33 of 2013 on the file of learned Assistant Sessions Judge, Neyveli and the receipt evidencing such payment has been filed before this Court. A further sum of Rs.5,00,000/- has been paid by petitioner/accused to PW-2, victim, in person and before this Court on 17.08.2017. Such receipt is acknowledged by way of endorsement of PW-2 in the case bundle as also endorsement of learned counsel on either side. It will now be open to PW-2, victim, to move a petition before trial Court seeking payment out of the sum of Rs.3,00,000/- deposited earlier. On such petition moved before it, trial Court shall direct payment of the said sum to PW-2, victim.

The Criminal Revision Case is disposed of with the above direction.
Connected miscellaneous petitions are closed.

18.08.2017

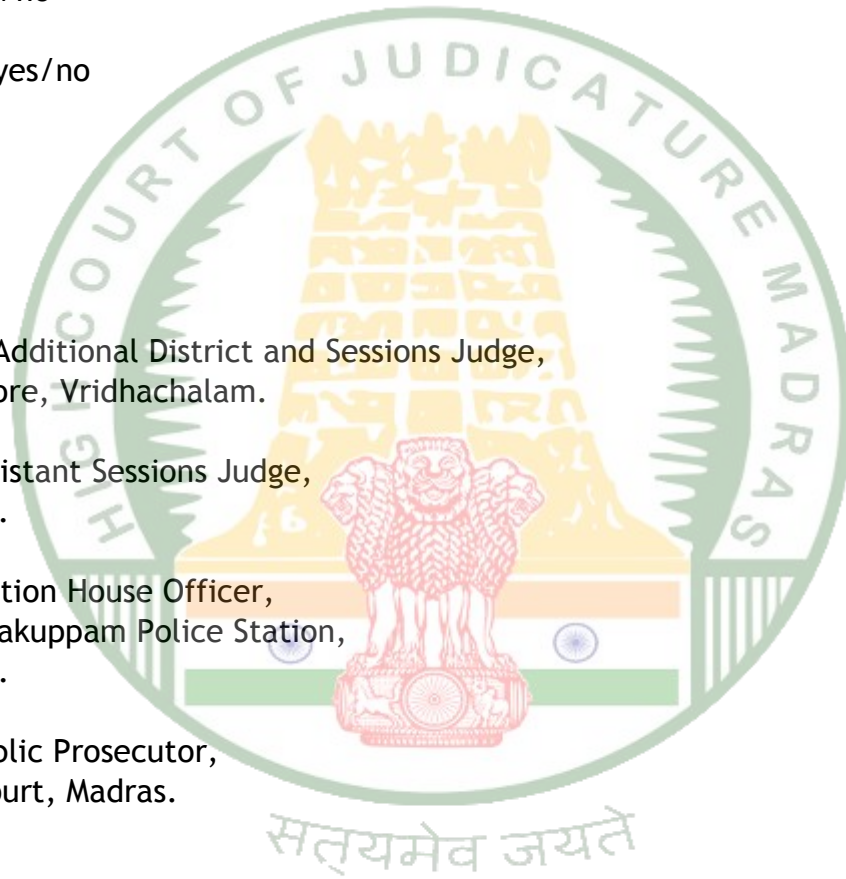
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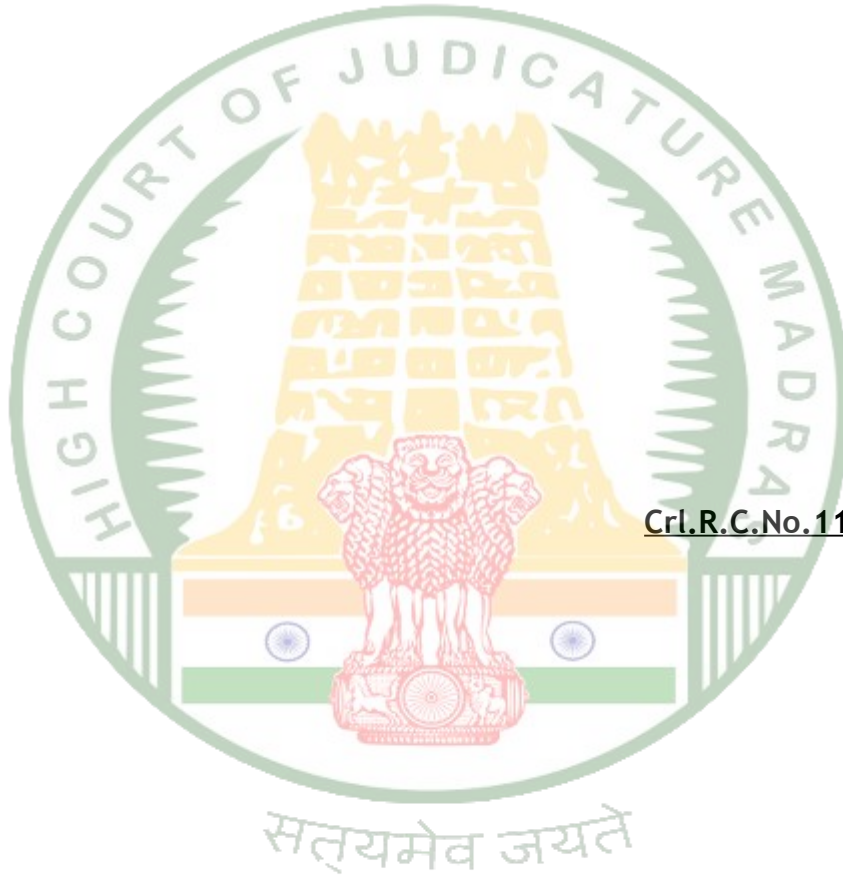
- 1.The III Additional District and Sessions Judge,
Cuddalore, Vridhachalam.
- 2.The Assistant Sessions Judge,
Neyveli.
- 3.The Station House Officer,
Mandarakuppam Police Station,
Neyveli.
- 4.The Public Prosecutor,
High Court, Madras.



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C.T.SELVAM, J

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