

Bail Slip

The Petitioner/Accused namely 1 & 2 viz.,
1.Devendiran S/o.Velu, and 2.Ganesan S/o.Elumalai were directed
to be released on bail as per order of this court dated
05/12/2014 made in Crl.Mp.No.1 of 2014 in Crl.RC.No.1206/2014
on the file of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2018

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1206 of 2014

1.Devendiran

2.Ganesan

..Petitioners/A1 & 2

Vs.

State of Tamil Nadu,

Rep. By The Sub-Inspector of Police,

Kondapalayam PS,

(Crime No.18 of 2008)

..Respondent/Complainant

Criminal Original Petition filed under Section 401, r/w 397
of the Criminal Procedure Code, against the order dated
17.02.2010 made in C.C.No.38/2008 passed by the learned Judicial
Magistrate, Sholinghur, modified by the learned II Additional
District and Sessions Judge, Vellore in Crl.A.No.16/2010 dated
6th November 2014.

For Petitioners : Mr. S.Senthilmurugan

For Respondent : Mr. V.Arul,
Additional Public Prosecutor

O R D E R

This Criminal Revision arises against the order dated
17.02.2010 made in C.C.No.38/2008 passed by the learned Judicial
Magistrate, Sholinghur, modified by the learned II Additional
District and Sessions Judge, Vellore in Crl.A.No.16/2010 dated
6th November 2014.

2. The case of the prosecution is that on 26.01.2008 at about 4.00 p.m., petitioners along with other accused went to defacto complainant's house and demanded that he sell his land to them. When he refused to do so, A1 picked up a stone threw it and hit him on his left knee and caused grievous injury, A2 picked up another stone and throwing it, caused simple injury to the left thigh. A3 pushed defacto complainant down and kicked his back and A4 slapped his chest. The accused were accompanied by 11 persons and they told him that they already had broken his hand and threatened that if he did not sell the land they would set him ablaze. A case in Crime No.18 of 2008 on the file of respondent was registered. Upon completion of investigation and filing of charge sheet informing commission of offences u/s.324, 325, 323 and 506(ii) IPC, the case was tried in C.C.No.38 of 2008 on the file of learned Judicial Magistrate, Sholinghur.

3. Before the trial Court, the prosecution examined eight witnesses and marked 10 exhibits and two material object. None were examined on behalf of the defence nor were any exhibits marked.

4. On appreciation of materials before it, trial Court, under judgment dated 17.02.2010, convicted A1 to A4 and sentenced them as follows:-

Accused	Sections of Law	Sentence
A1	325 IPC	3 Years R.I and Fine of Rs.3,000/- i/d 3 months S.I.
A2	324 IPC	2 years R.I. and Fine of Rs.2,000/- i/d 2 months S.I.
A3 & A4	323 IPC & 248(2) Cr.P.C	Undergo imprisonment till rising of the Court and fine of Rs.1,000/- i/d one month S.I.

A1 to A4 preferred appeal in C.A.No.16 of 2010 on the file of learned II Additional District and Sessions Judge, Vellore at Ranipet, Vellore District. Appellate Court, under orders dated 06.11.2014, while confirming the conviction, modified the sentence imposed on A1 to one of 2 years R.I. Fine imposed is confirmed. As regards A2 to A4, the conviction and sentence imposed by trial Court is confirmed. Hence, petitioners/A1 and A2 have preferred this revision.

5. Heard learned counsel for petitioners and learned Additional Public Prosecutor for respondent as also perused the materials on record.

6. PW-1 is the injured, PW-2, his wife and PW-3, his sister and PW-4, his daughter. Evidence of PWs-2 to 4 is

exaggeratory in nature that they have spoken to an attack on PW-1 by all the accused persons. PW-1, who has suffered an injury to his leg specifically has informed of attack by four persons viz., A1 to A4. He has spoken to injury to the left knee having been caused by the first petitioner/A1 and to the right thigh by second petitioner/A2. It is his admission that there was a dispute between him and accused since they, at the instance of PW-1's brother, between whom and PW-1 a civil case was pending, had resorted to level land part of which belonged to PW-1. On being questioned 15 persons had gathered in front of the house and in the course of the altercation, A1 to A4 had picked up stones lying around the place and thrown the same, as a result of which, PW-1 came to suffer injuries. The Accident Register informs that PW-1 had suffered a punctured wound at the left knee. Though Accident Register suggests the inference of a fracture, no x-ray or radiological report has been marked and as such Court below, rightly has found offence under Section 325 IPC not attracted.

7. We are of the view that the Courts below, on proper appreciation, have found the appellants guilty of offence under Section 324 IPC. It is brought to notice that the first petitioner/A1 has suffered incarceration for a period of 27 days while the second petitioner/A2, 11 days.

8. Considering the nature of the case and circumstance in which the petitioners came to set upon PW-1 i.e they having been unarmed, have picked up stones lying at the scene and thrown the stone at him and caused injuries, this Court is of the view that it would be appropriate while confirming the conviction for offence under Section 324 IPC, to alter the sentence to the period already undergone by petitioners. Fine imposed by trial Court is confirmed and the same has been paid. It will not be necessary for the petitioner to undergo any further incarceration in the present case.

9. This Criminal Revision Case is disposed of with the above modification.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

kmi

To

1.The Judicial Magistrate,
Sholinghur.

2.The Chief Judicial Magistrate,
Vellore(for Information)

3.The II-Additional District and Sessions Judge,
Vellore.

4.The Sub-Inspector of Police,
Kondapalayam PS.

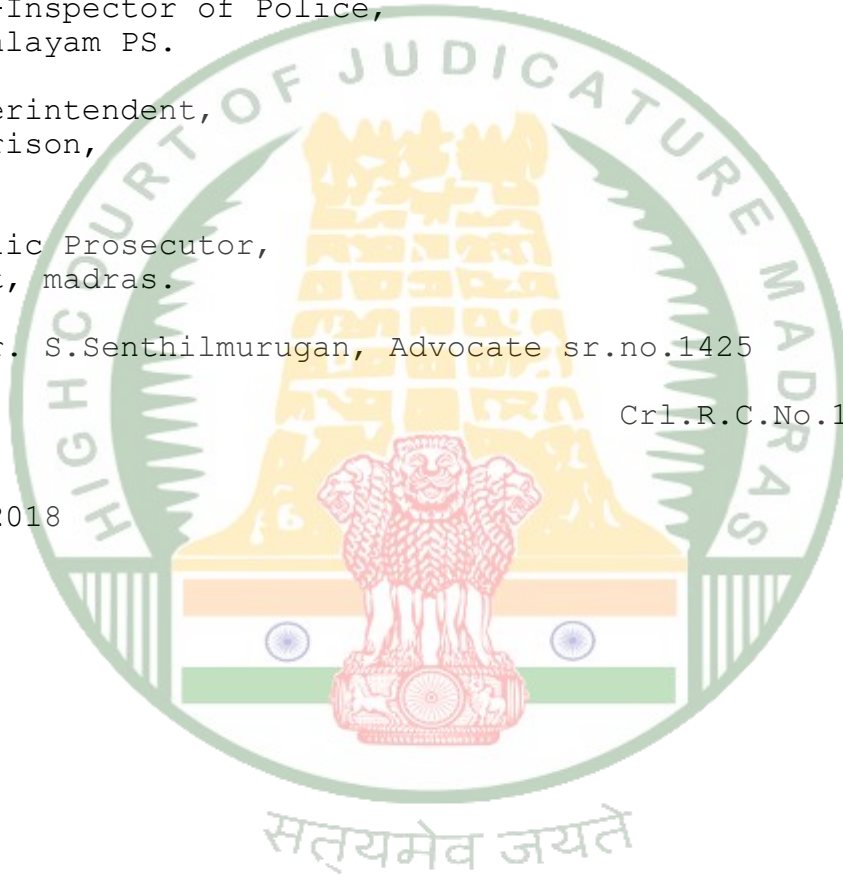
5.The Superintendent,
Central Prison,
Vellore.

6.The Public Prosecutor,
High court, madras.

+lcc to Mr. S.Senthilmurugan, Advocate sr.no.1425

Cr1.R.C.No.1206 of 2014

sai(co)
nr 27/03/2018



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