

BAIL SLIP

That the appellants/Accused Nos.1 to 3, (A1) Ramu, S/o.Karuppian, (A2)-died, (A3)Rajkumar @ Pillaiyar Raju, S/o.Ramalingam, were directed to released on bail as per order of this Court dated 29.09.2011 in MP No.1 of 2011 in CRL RC No.744 of 2011.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.08.2018

PRONOUNCED ON : 21.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

CRL.R.C.No.744 of 2011

1.Ramu
2.Raju @ Alakkuraju
3.Rajkumar @ Pillayar Raju ... Petitioners / Appellants /
Accused Nos.1 to 3

-vs-

The State represented by,
The Inspector of Police,
Mailaduthurai Police Station,
Mailaduthurai,
Nagapattinam.

... Respondent/Respondent/
Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w. 401 Cr.P.C., praying to allow this criminal revision by setting aside the confirmation of conviction and sentence made in Criminal Appeal No.60 of 2006 dated 08.02.2011 on the file of the Sessions Judge, Nagapattinam in pursuance of the judgment made in S.C.No.207 of 2005 dated 20.04.2006 on the file of the Principal Assistant Sessions Judge, Mailaduthurai.

For Petitioners : Mr. D.Veerasekaran

For Respondent : Mrs.V.Sarathadevi,
Government Advocate (Criminal side)

ORDER

Convicted accused A1 to A3 are the appellants herein. This revision is filed against the in Criminal Appeal No.60 of 2006 dated 08.02.2011 on the file of the Sessions Judge, Nagapattinam confirming the judgment made in S.C.No.207 of 2005 dated 20.04.2006 on the file of the Principal Assistant Sessions Judge, Mailaduthurai in which the learned trial Judge convicted the accused A1 to A3 under Sections 341 and 307 IPC and sentenced them to undergo one month simple imprisonment each, for the offence under Section 341 IPC and for the offence under Section 307 IPC sentenced them to undergo three years rigorous imprisonment and to pay a fine of Rs.500/- each, in default, to undergo further six months rigorous imprisonment each, and the sentences are ordered to run concurrently and set off allowed to A1 to A3 under Section 428 Cr.P.C., for their custody period already underwent.

2. The respondent police filed charge sheet alleging that A1 to A3 have committed offence under Sections 341 and 307 IPC and stated that on 27.08.2003, at about 12.00 a.m., while PWs.1 and 2 were talking in front of PW.1's house, PW.4 came and complained to PW.1 that he was attacked by A1 and A2, when he questioned them as to why they selling arrack. On such complaint from PW.4, PWs.1 and 2 went to Kalliamman Koil and questioned A1 and A2 as to why they beat PW.4. Thereafter some conversation took place between them and PWs.1 and 2 warned the accused to behave properly. When being so, on 28.08.2003 at about 11.00 p.m., when PWs.1 and 2 were returning from bazaar to their houses, when they were nearing one Santhana Gopalakrishnan's house, all the accused A1 to A3 came in an auto with sickles and A1 by saying "Only if you die I will be in peace" and tried to cut PW1 on the neck, when the same was ward off by PW.1, he suffered by cut injury on the left palm. Again A1 cut PW1 on the right elbow. A2 cut PW.2 on the head and A3 cut on the left shoulder and again A3 cut PW.2 on the left ankle.

3. Considering the foregoing documents and evidence, the learned Principal Assistant Sessions Judge held that charges under Sections 307 and 341 IPC are proved and laid the conviction as stated supra. The criminal appeal filed by all the three accused in C.A.No.60 of 2006, was dismissed by the learned Sessions Judge, Nagapattinam by confirming the trial Court judgment. Hence this criminal revision.

4. Pending criminal revision before this Court, the second accused died on 31.03.2011, as per memo filed by the

learned Government Advocate (Criminal side) on 06.03.2017 and the said memo is recorded. Hence, the proceedings against the second appellant/second accused stands abated.

5. The learned counsel for the revision petitioner submitted that the lower appellate Court failed to see the xerox copy of the wound certificate Ex.P6 and Ex.P7 and the same should not be given much importance in this case and no motive has been attributed by the prosecution against the petitioners/A1 to A3.

6. The learned Government Advocate (Criminal side) made submission in support of the judgments of the Courts below.

7. After hearing the submissions of both the parties and also perusing the oral and documentary evidence of PW1 and PW2-the injured witnesses, who have clearly stated that on 27.08.2003 at about 12.00 a.m., while they are talking in front of PW1's house, PW4 came and informed them that when he questioned the accused as to why they were selling arrack, the accused have beaten them and on hearing the said report of PW.4, PW1 and PW2 went to Kaliamma Kovil and warned the accused to behave properly and this portion of the evidence was not challenged in the cross-examination by the defence and thus, the motive aspect projected by the prosecution has been clearly spoken to by PW.1 and PW.2 stands duly corroborated by PW.4 and thus, this Court finds that the plea that the motive for the crime was not proved by the prosecution as contended by the learned counsel for the revision petitioner, stands negatived in view of the overwhelming evidence of PWs.1, 2 and 4.

8. PWs.1 and 2 are injured witnesses and they are clearly deposed that near the house of PW.5-Santhana Gopalakrishnan, all the accused came in an Auto with weapons and on seeing them, A1 told that only if PW1 die, it will be peace for him and accordingly, A1 tried to assault on the left neck of the accused, on his evasion, PW.1 suffered a cut injury on his left palm and again A1 gave a deep cut on the right elbow. At that time, when PW.2 intervened to save PW.1, A2 cut PW.2 on the head with Aruval and A3 cut him on the left shoulder and also on the left leg. In this connection, the medical evidence of PW.7-medical officer attached to the Mayiladuthurai Government Hospital, at the relevant time assumes significance. In his evidence, he has stated that on 28.08.2003 at 11.30 p.m., PW.1 was brought to the hospital and he states before him that he was attacked by four known persons. PW.7 noted cut injury measuring

15 c.m., from the left index finger to entire palm exposing bones inside and he was also noted that fracture on the second metacarpal bone and he has also noted cut injury measuring 3 c.m., length on the left elbow exposing bone and immediately, he referred PW.1 to the Chidambaram Raja Muthiah Medical College Hospital as per the report received he has issued Ex.P.4 opinion in the A.R. Copy stating that 1st injury is grievous in nature and 2nd injury is simple injury. Similarly, she has treated PW.2 and noted the following injuries:

1. cut injury measuring 15 c.m. Length in the left leg and tibia also,
2. cut injury on the left shoulder about 3 c.m. And
3. cut injury measuring 3 c.m., on the left parietal area and

she issued Ex.P5 stating that injury No.1 is grievous in nature and other injuries are simple in nature.

9. It remains to be stated that PWs.1 and 2 have been referred to specialised treatment to Raja Muthiah Medical College at Chidambaram, where PW.8-Doctor examined both PWs.1 and 2 and he could depose that plastic surgery was conducted on PW.1 and x-ray has also been taken. Since the nerves were cut off, the movement of index finger totally reduced. The above injuries are grievous in nature and thereafter, PW.1 was discharged on 16.09.2003. On the same day, he has treated PW.2 and X-ray also taken. It is found that no fracture on the bone. Hence, he was discharged on 24.09.2003 and the wound certificate copies are Ex.P6 and Ex.P7.

10. Thus, this Court finds that the version of the injured witnesses PW.1 and PW.2 regarding the assault by using Aruval upon them and the injury caused thereon has been duly corroborated by the medical evidence of Doctors-PWs.7 and 8 and they had issued Exs.P3, P4, P6 and P7. Thus, this Court find that the injury on the body of PW.1 as spoken by them in the witness box stands duly corroborated by the medical evidence of the Doctors. Further more, it is also seen that PW.7- Doctor has also noted a long cut injury measuring 15 c.m., from the left index finger to entire palm exposing bones inside, and the second metacarpal bone is also fractured.

11. Thus, from the evidence of PW.7-Doctor, the prosecution has clearly established that by the assault of the first accused, PW.1 has suffered cut injury. PW.7-Doctor are also noted down a long cut injury measuring 15 c.m., on the left leg between the tibia and another cut injury measuring 3 c.m.,

on the left shoulder and 3 c.m., cut injury on the left parietal region on PW.2 and she issued Ex.P5-Accident Register copy.

12. The evidence of PW.1 about the attack made by A1 and A2 causing injury on his head, shoulder and leg has been duly corroborated by the medical evidence of the doctors and therefore, the findings of both the Courts below regarding the act of the accused on the body of PWs.1 and 2 as discussed supra, does not call for any interference. Further more, M.O.2 to M.O.4 have been seized and the recovery witnesses have clearly spoken about the seizure of M.O.2 to M.O.4-the weapon of crime. Hence, based on the evidence of prosecution and M.O.2 and M.O.3, which were used in the assault by the accused-A1 and A2 and taking note of the nature of the offence and also the injuries sustained by PW.1 and the manner of attack on the body of PWs.1 and 2, this Court finds that A1, A2 and A3 have caused injuries on PW.1 (made attempt to murder) and the same has been proved in the manner known to law by the prosecution beyond reasonable doubt. A similar finding that has been recorded by both the Courts below, namely, the learned Sessions Judge, Nagapattinam and the learned Principal Assistant Sessions Judge, Mayiladuthurai does not warrant any interference in the absence of any contradiction describing the veracity of the witnesses.

13. In fine, both PW.1 and PW.2 clearly deposed regarding the assault on their body by the accused A1 to A3 and consequential injury has been duly spoken by the medical evidence of PW.7 and PW.8, who had issued Exs.P5, P.6 and P7 and the recovery of weapon of crime used in the offence has also been proved in the manner known to law. Hence, I do not find any point for interference at this revision stage and the concurrent finding of the Court below and the conviction laid under Section 307 IPC and the sentence imposed as stated above does not warrant any interference.

14. In the result, this Criminal Revision Case is dismissed and the conviction and sentence imposed by the trial Court as confirmed by the lower Appellate Court against the accused A1 and A3 is hereby confirmed. This Criminal Revision Case proceedings stands abated as against the second accused.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

PJL

To

1. The Judicial Magistrate, Mayiladuthurai.
2. The Sessions Judge,
Nagapattinam.
3. The Principal Assistant Sessions Judge,
Mailaduthurai.
4. The Inspector of Police,
Mailaduthurai Police Station, Mailaduthurai,
Nagapattinam.
5. The Public Prosecutor,
High Court, Madras.

Copy To:

The Section Officer,
Criminal Section,
High Court, Madras.

+1 cc to M/s.D.Veerasekaran, Advocate Sr.No.20

MG (CO)
CSL/06.02.2019

ORDER MADE IN
CRL.R.C.No.744 of 2011

सत्यमेव जयते

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