

Bail Slip

The Petitioner, Accused No.4 in (C.C.No.280/2009, by the Judicial Magistrate No.II, Cuddalore) namely 1.Veerappan S/O Manmathan was directed to be released on bail as per the order of this Court dated 30.04.2013 in CrI.M.P.No.1/2013 in CrI.R.C.No.650/2013 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Criminal Revision No.650 of 2013

Veerappan ... Petitioner/Accused

Vs

State represented by
Station House Officer,
New Town Police Station,
Cuddalore,
Cuddalore District.
[Crime No.394 of 2008].

... Respondent/Complainant

Prayer:- Criminal Revision filed under Sections 397 and 401 Cr.P.C., against the order dated 23.01.2012 passed in C.A.No.38 of 2010 on the file of the Court of Sessions, Cuddalore Division, Cuddalore confirming the judgment dated 29.03.2010 in C.C.No.280 of 2009 passed by the learned Judicial Magistrate No.II, Cuddalore and to set aside the same.

For Petitioner : Mr.S.N.Arunkumar for
Mr.C.Ramkumar

For Respondent : Mr.R.Ravichandran,
Govt. Advocate (Criminal side)

O R D E R

The present criminal revision has been filed against the order dated 23.01.2012 passed in C.A.No.38 of 2010 on the file of the Court of Sessions, Cuddalore Division, Cuddalore confirming the judgment dated 29.03.2010 in C.C.No.280 of 2009 passed by the learned Judicial Magistrate No.II, Cuddalore and to set aside the same.

(ii) There are totally six accused. The accused 1, 2, 3, 5 and 6 stood charged for the offence under Sections 147, 294 and 323 IPC and 4th accused stood charged for the offence under Sections 148, 294(b) and 326 IPC in C.C.No.280 of 2008. The trial Court, by judgment dated 29.03.2018, convicted accused 1, 2, 3, 5 and 6 for the offence under Sections 147 and 294 IPC and convicted the 4th accused for the offence under Sections 148, 294 and 326 IPC.

(iii) Accused 1, 2, 3, 5 and 6 are directed to undergo imprisonment till the raising of the Court and to pay a fine Rs.1,000/- each, in default, to undergo rigorous imprisonment for one month simple imprisonment for the offence under Section 147 IPC. The accused 1 to 6 are directed to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for 15 days for the offence under Section 294(b) IPC.

(iv) The 4th accused is directed to undergo imprisonment till the raising of the Court and to pay a fine of Rs.2,000/- in default, to undergo rigorous imprisonment for two months for the offence under Section 148 IPC and further directed him to undergo rigorous imprisonment for six months and to pay a fine of Rs.2,000/- in default, to undergo rigorous imprisonment for one month for the offence under Section 326 IPC. Challenging the same, the appellant filed the Criminal Appeal in C.A.No.38 of 2010 on the file of the Court of Sessions, Cuddalore Division, Cuddalore and the same was dismissed by judgment dated 23.01.2012.

Challenging the above, the present criminal revision has been filed before this Court by the petitioner/A4.

2. The facts leading to filing of this revision are as follows :-

(i) On 13.08.2008, at about 5.00 p.m near Arunagiri Mudali Street, Pudupalyam, Cuddalore, due to previous enmity between the accused and the witnesses, the accused formed unlawful assembly with deadly weapons and also assaulted the victims and caused simple and grievous injuries to them. P.W.1, Perumal gave complaint to P.W.9, the Head Constable and registered a case in C.S.R.No.191 of 2008 and handed over to P.W.10, the Sub Inspector of Police. On receipt of the complaint, the Sub Inspector of Police, Cuddalore Pudhu Nagar Police Station filed a case in Cr.No.394 of 2008 for the offence under Sections 147, 148, 294, 323 and 324 IPC. Thereafter, he filed a charge sheet under Sections 148, 294, 323 and 326 IPC on the file of the learned Judicial Magistrate No.II, Cuddalore.

(ii)Based on the above materials, the trial Court framed charges as detailed in the first paragraph of the order. In order to prove the case of prosecution, as many as 10 witnesses were examined and 6 documents were marked as Exs.P.1 to Ex.P.6.

(iii)The learned Judicial Magistrate No.II, Cuddalore has taken the charge sheet on file in C.C.No.280 of 2008 and after perusing the materials available on record and after hearing the arguments advanced by the learned counsel for both sides, convicted and sentenced the accused by the judgment dated 23.07.2008 as stated supra. Aggrieved by the same, the accused filed an appeal in Criminal Appeal No.120 of 2008 on the file of the learned I Additional District and Sessions Judge, Salem. The appellate Court after hearing both sides, dismissed the appeal by judgment dated 23.01.2012.

(iv)Aggrieved by the judgment dated 23.01.2011, the petitioner/4th accused alone has filed the present criminal revision petition before this Court.

3.The learned counsel for the petitioner/A4 submitted that the prosecution has failed to prove the case beyond reasonable doubt. He further submitted that the Courts below failed to see that the witnesses are aggressors to the occurrence and they are the interested witnesses. Moreover, he submitted that the other accused were awarded lesser punishment, but, the petitioner/A4 was only awarded higher punishment.

4.The learned counsel for the petitioner/A4 further submitted that the petitioner has attacked the victims only emotionally and not intentionally and he is not an habitual offender. Therefore, he prayed this Court to set aside the judgments passed by both the Courts below and show leniency on the petitioner.

5.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) and perused the materials available on record carefully.

6.On a perusal of records and the witnesses, it is seen that the prosecution has proved the case beyond reasonable doubt and there is no reason to interfere with the judgments passed by both the Courts below and this Court finds no illegality or irregularity or perversity in the judgment of the trial Court and there is no reason to interfere with the order passed by both the Courts below.

7.However considering the submission made by the learned counsel for the petitioner that the petitioner has attacked the victims only emotionally and not intentionally and he is not an habitual offender, this Court is inclined to modify the sentence imposed on the petitioner.

8.To meet the end of justice, this Court while confirming the conviction for the offence under Section 148 IPC, reduces only the period of sentence from six months to three months Rigorous Imprisonment.

In the result, the Criminal revision petition is disposed of. The sentence already undergone, if any, by the accused shall be set off under Section 428 Cr.P.C.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Sessions Judge,
The Court of Sessions,
Cuddalore Division,
Cuddalore.

2.The Principal Sessions Judge,
Cuddalore.

3.The Judicial Magistrate No.II,
Cuddalore.

4.The Station House Officer,
New Town Police Station,
Cuddalore, Cuddalore District.

5.The Superintendent,
Central Prison,
Cuddalore.

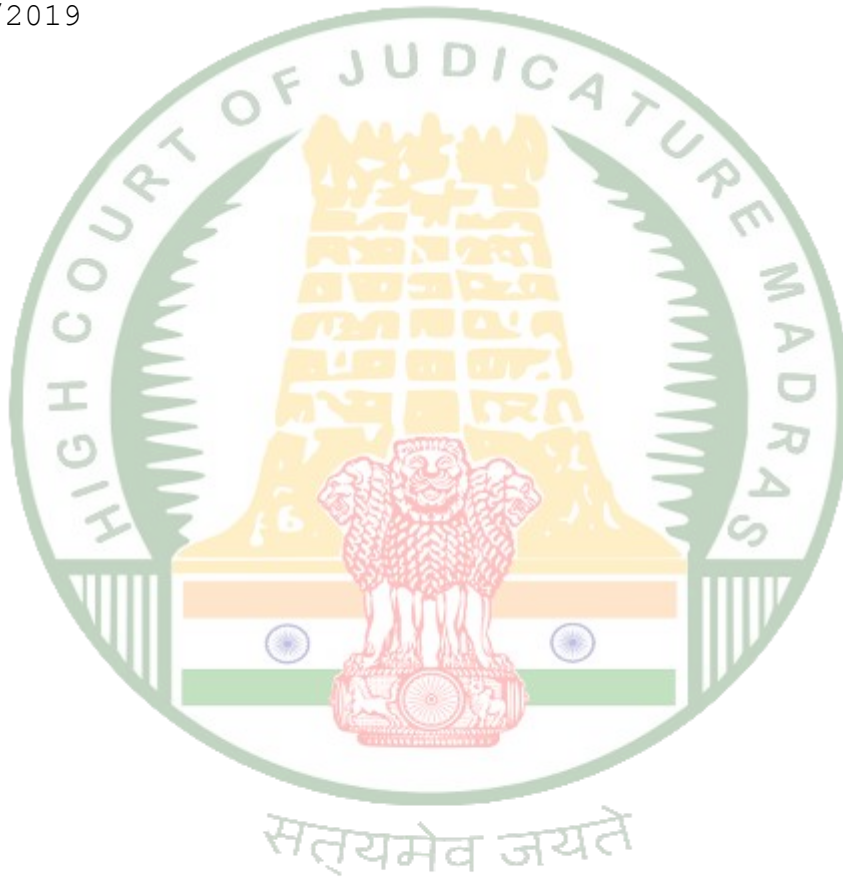
6.The Public Prosecutor,
High Court, Madras.

7.The Section Officer,
Crl.Sec, Records,
High Court, Madras.

+1cc to Mr.C.Ramkumar, Advocate Sr.67609

Crl.R.C.No.650 of 2013

br[co]
srg 12/03/2019



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