

BAIL SLIP

that the Appellant / Accused namely K.Arul, S/o.Kannan was directed to release on bail as per order of this court dated 23.04.2007, MP.1/2007 in CrI.A.No.400/2007.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.A.No.400 of 2007

K.Arul ... Accused/ Appellant

Vs

The State of Tamilnadu
Rep. By Inspector of Police,
Virudhachalam Police Station,
Cuddalore District.
(Crime No.143/2005) ... Complainant/Respondent

Prayer: The Criminal Appeal has been filed under Section 374(2) of the Criminal Procedure Code, to set aside the conviction and sentence passed in judgment dated 03.04.2007 made in S.C.No.346 of 2005 on the file of the Additional District and Sessions Judge/Fast Track Court No.III, Virudhachalam

For Petitioner : Mr.K.Arul

For Respondent : Mr.T.Shunmuga Rajeswaran
Government Advocate (CrI.Side)

JUDGMENT

The Appellant herein was charged with offence under Sections 307, 332, 342 and 506(ii) of IPC along with one Balamurugan in SC.No.346 of 2005 on the file of the Additional District and Sessions Judge/Fast Track Court No.III, Virudhachalam.

2. The Charge against the accused was that on 22.05.2005 at about 14.30 hours, he along with Balamurugan had threatened the members of the general public near the bus stand. The Police party comprising the Head Constable Anwar, Sub Inspector of Police and others on information came to the spot

to apprehend the accused. At that time, the Appellant herein attacked the Head Constable with Aruval and thereby prevented the Police from discharging their duties. Therefore, the respondent Police registered a case in Crime No.143/2005 on the file of the Virudhachalam Police, against the appellant and the said Bala Murugan for offences under Sections 324, 307, 341, 332 and 506(ii) of IPC. During the course of investigation both of them were arrested. The matter was taken up for investigation and final report was laid and it was committed to the Sessions Court and taken on file in S.C.No.346/2005. Before the trial Court, the prosecution examined Pws 1 to PW12 and Ex.P1 to Ex.P10 were marked. Th Aruval used by both the accused were marked as M.Os.1 and 2. On the side of the accused, no defence evidence was let in.

3. The learned trial Court Judge found that the accused had committed the offences under Sections 332, 324 and 307 of IPC and the accused were sentenced to undergo one year rigorous imprisonment and fine of Rs.1,000/- in default, to undergo simple imprisonment for three months, convicted them under Sections 324 of IPC and sentenced them to undergo rigorous imprisonment for one year and to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for three months, and sentenced them to undergo rigorous imprisonment for two years and to pay a fine of Rs.2,000/-, in default, to undergo simple imprisonment for three months respectively. They were directed to undergo the sentences concurrently. They were, however acquitted in respect of the offence under Section 506(ii) of IPC. Questioning the judgment dated 03.04.2007, this appeal has been filed by the first accused.

4. Heard, the learned counsel for the appellant and the learned Government Advocate (Criminal side) for the respondent.

5. This case involves an attack on Police Personnel in a public place. The defacto complainant is none other than the Sub Inspector of Police himself. The injured witness was examined as PW3. The evidence, given by the injured witness had inspired the confidence of the Court below.

6. It is true that the non-official witnesses had turned hostile in this case. But that by itself will not affect the strength of the prosecution case. It is seen that the charges were framed only under Sections 332, 307 and 506(ii) of IPC and there was no charge under Section 324 of IPC. But the Court below has found the accused guilty under the said head also. Therefore, this Court set and aside the judgment of the Court below in respect of finding the accused guilty under Section 324 of IPC. The Court had acquitted the appellant under Section 506(ii) of IPC and the said finding is confirmed.

7. It is seen that the accused was arrested on 24.03.2005 and released on 15.07.2005 and he had been in jail for a total of 112 days. In this case, the Head Constable/PW3 suffered only simply injuries.

8. Therefore, I am of the view that the sentence to be imposed on the appellant can be set off to the period already undergone by him. Even, while confirming the conviction given by the Court below in respect of the charge under Sections 332 and 307 of IPC, the sentence is modified to the period already undergone by the appellant. Hence, the Criminal Appeal is partly allowed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

rli/dna

To

1. The Judicial Magistrate No.1,
Virudhachalam.
2. - do - thro' the Chief Judicial Magistrate,
Virudhachalam
3. The Additional District and Sessions Judge
Fast Track Court No.III,
Virudhachalam,
Cuddalore District.
4. The Superintendent,
Central Prison,
Cuddalore.
5. The Public Prosecutor,
High Court, Madras-104.
6. The Inspector of Police,
Virudhachalam Police Station,
Cuddalore District.

+1cc to Mr.N.S.Sivakumar, Advocate, S.R.No.58433

Cr1.A.No.400 of 2007

mg(co)
ssm(02/01/2019)