

BAIL SLIP

The Petitioners / Accused 1 to 3 namely 1) Sundaramoorthy S/o. Rajamanickam, 2) Rajasekaran S/o. Sundaramoorthy, 3) Prabakaran S/o. Sundaramoorthy be and hereby were directed to be released on bail vide court order dated 06/03/2013 in MP.1/2003 in CrI Rc. 311/2013. (S.C.No.281/12 as the file of the principal District Sessions Judge, Cuddalore)

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.311 of 2013

1. Sundaramoorthy
2. Rajasekaran
3. Prabhakaran

...Petitioners / Accused

Vs.

The Deputy Superintendent of Police,
Thittakkudi, Cuddalore District. ...Respondents/Complainant

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the conviction and sentence passed in S.C.No.281 of 2012 dated 06.02.2013 by the learned Principal & District Sessions Judge, Cuddalore.

For Petitioners : Mr.P.Ganapathi

For Respondent : Mr.R.Ravichandran,

Government Advocate (CrI.Side)

ORDER

The criminal revision has been filed against the conviction and sentence passed in S.C.No.281 of 2012 dated 06.02.2013 by the learned Principal Sessions Judge, Cuddalore.

2 Based on the complaint Ex.P1 given by the defacto complainant/P.W.1, a case was registered in Crime.No.83/2012 against the petitioners/accused under Sections 294, 323, 324 and 506 (ii) IPC r/w 3(1) (x) of the SC/ST Act, 1989. Since the offence is under SC/ST Act, the Inspector of Police, Mangalapet Police Station/P.W.7 forwarded the case to the Superintendent of Police, Cuddalore and P.W.8 who is Deputy Superintendent of Police, Tittagudi Sub Division, after investigation, has filed a final report before the learned Judicial Magistrate II, Vridhachalam and the same was committed to the learned Principal

Sessions Judge, Cuddalore, which was taken on file in S.C.NO.281 of 2012.

3 Before the trial Court, prosecution has examined P.W.1 to P.W.8 and marked documents Ex.P1 to Ex.P7 to prove its case. On the side of the accused no witness was examined and no document was marked. The learned Principal Sessions Judge, after trial, found the accused guilty and convicted them under Sections 235 (2) Cr.P.C., 294(b), 323 IPC and 3(1)(x) of SC/ST Act and sentenced the 1st & 2nd accused to undergo six months simple imprisonment with fine of Rs.1500/- to 1st accused, Rs.1000/- to 2nd accused, in default to undergo simple imprisonment for a further period of one week & imposed fine of Rs.1000/- to 3rd accused, in default, to undergo simple imprisonment for a period of one week, by judgment dated 06.02.2013.

4 Aggrieved against the said judgment of conviction dated 06.02.2013, accused 1 to 3 have preferred the present criminal revision before this Court.

5 The learned counsel appearing for the petitioners/accused would submit that the defacto complainant/P.W.1 had stated that three unknown persons had assaulted him and scolded him in a filthy language by insulting his community and none of the witnesses were mentioned the name of the petitioners/accused. He further submitted that no independent witness had been examined and all the witnesses are interested witness. The learned counsel would further submits that to register a case under SC/ST Act, the Deputy Superintendent of Police has alone got power, whereas in the present case, the Inspector of Police has registered the FIR, which is contrary to law. The trial Court failed to consider these aspects and erroneously convicted the petitioners, which warrants interference of this Court.

6 Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent police would submit that in the first available document Ex.P2/Accident Register, it was clearly mentioned that "three known persons had assaulted". There is no bar to register FIR by the Inspector of Police, investigation can be done by the Deputy Superintendent of Police coupled with the Inspector of Police. In the present case, investigation was done by the Deputy Superintendent of Police and he only filed a final report before the Court below. Further defacto complainant had given evidence against these accused and P.W.2 to P.W.5 had corroborated the same. P.W.7 had spoken about the lodging of complaint and P.W.8 prepared Ex.P3 Observation Mahazar and Rough Sketch. Hence prosecution has proved its case beyond reasonable doubts.

7 Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for respondent police and perused the materials available on record.

8 On a perusal of the first available document Ex.P2/AR copy, it is very clear that the defacto complainant has clearly stated that "three known persons had assaulted". The defacto complainant in his evidence has clearly mentioned the name of the accused. P.W.3 to P.W.5 are eye witness to the occurrence. P.W.2 Doctor, who gave treatment to P.W.1 has given wound certificate which shows that the defacto complainant sustained injuries. Though FIR has been registered by P.W.7 Inspector of Police, investigation had been done by only P.W.8 Deputy Superintendent of Police. Hence, from the complaint, AR Copy and the evidences of P.W.3 to P.W.5, it is very clear that the accused had committed offence under Sections 235 (2) Cr.P.C., 294(b), 323 IPC and 3(1)(x) of SC/ST Act and hence the trial Court had rightly convicted the petitioners/accused, in which this Court does not find any illegality or perversity. This Court, as a revision Court need not re-appreciate entire evidence and if there is any perversity in the order passed by the Court below, this Court can interfere with the same.

9 Since this Court does not find any perversity in the judgment of conviction passed by the Court below, the present criminal revision is dismissed and the conviction and sentence passed by the learned Principal Sessions Judge, Cuddalore in S.C.No.281 of 2013 by judgment dated 06.02.2013 is hereby confirmed. The respondent police is directed to secure the accused and produce before the Court below, to undergo remaining period of imprisonment.

Sd/-

Assistant Registrar (CS-VI)

// True Copy//

Sub Assistant Registrar

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To

1.The Principal District Sessions Judge,
Cuddalore.

WEB COPY

2.The Deputy Superintendent of police,
Thirrakkudi, Cuddalore district.

3.The Judicial Magistrate No.2,
Vridhachalam.

4.Thro-The Chief Judicial Magistrate,
Cuddalore.

5.The Public Prosecutor,
High Court of Madras.

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

CrI.R.C.No.311 of 2013

KJI (CO)
RMP (27/09/2018)



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