

**BAIL SLIP**

Ganesan, S/o.Govindarajan, Sole Accused is released on bail vide the order of this Court, dated 18.02.2015 made in M.P.(MD) No.1/2015 in CrI.A(MD)No.45/2015.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.08.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.A[MD].No.45 of 2015
and
CRL.M.P.[MD].No.4640 of 2016

Ganesan : Appellant/Sole Accused

Vs.

State Represented by
The Deputy Superintendent of Police,
Thiruvaiyaru
in Naducauvery Police Station,
Thanjavur District.
[Crime No.163 of 2013]

: Respondent/Complainant

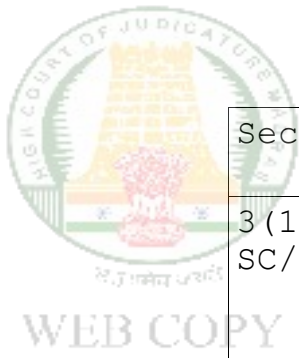
PRAYER: Appeal is filed under Section 374(2) of the Code of Criminal Procedure to set aside the Judgment and Conviction dated 06.02.2015, by the learned I-Additional District and Sessions Judge (PCR), Thanjavur in Spl.S.C.No.47 of 2014 and acquit the appellant.

For Appellant : Mr.M.Karunanithi

For Respondent : Mr.A.Robinson
Government Advocate[Criminal Side]

JUDGMENT

The appellant is the sole accused in Special S.C.No.47 of 2014. He stood charged for the offences punishable under Section 294(b) of IPC and Section 3(1) (x) of Scheduled Castes and scheduled Tribes (Prevention of Atrocities) Act. By Judgment dated 06.02.2015, the Trial Court has convicted the appellant and sentenced him, as



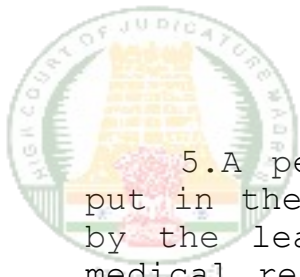
Section of Law	Sentence of imprisonment	Fine amount
3(1) (x) of SC/ST Act	To undergo rigorous imprisonment for two years	Rs.500/- in default to undergo rigorous imprisonment for three months.

Challenging the said conviction and sentence, the appellant has come up with this Criminal Appeal.

2. The case of the prosecution is that the petitioner herein abused one Palaniayya, by calling him his caste-name, when wordy duel crept between the appellant and palaniayya regarding illegal tapping of electricity for conducting street corner public meeting of communist party. The complainant P.W.1 had approached the respondent police on 30.08.2013 with a written complaint intimating about the occurrence, which has taken place on 28.08.2013. After investigation, the respondent has framed the charges under Section 294(b) of IPC and Section 3(1) (x) of Scheduled Castes and scheduled Tribes (Prevention of Atrocities) Act 1989. In support of the prosecution to prove charges, 11 witnesses were examined and 8 exhibits were marked on behalf of the prosecution. On the side of the defence, one Pitchai Rathinam was examined as D.W.1. The Trial Court had accepted the case of the prosecution and believed the version of the prosecution witnesses and had convicted the appellant herein to undergo two years rigorous imprisonment and imposed a fine of Rs.500/- for offence under Section 3(1) (x) of Scheduled Castes and scheduled Tribes (Prevention of Atrocities) Act, in default, three months rigorous imprisonment. Challenging the said conviction and sentence, the accused has preferred the appeal and also taken out an application to adduce additional witnesses on his behalf to show that on the date of occurrence, he was suffering from mental disorder and he was not of sound mind. This Court in CrI.M.P.[MD]. No.2 of 2015 in CrI.A.[MD].No.45 of 2015 vide order dated 28.04.2015 has permitted the accused to let in additional evidence.

3.Pursuant to the said order, the accused has examined additional defence witnesses A.D.W.1-Dr.Babu Balasingh, A.D.W.2-Smt.Ramya, who is none else then the wife of the appellant and A.D.W.3-Mr.K.J.Mathanmohan, A.D.W.4-Mr.Durairaj and A.D.W.5-Mr.Muralidharan persons known to the accused and spoken about his mental illness. A.D.W.1-Dr.Babu Balasingh has spoken about the treatment given to the appellant as inpatient from 31.07.2014 to 17.08.2014 for his mental illness and previous medical records were marked as Ex.D.3 (series).

4.The learned counsel appearing for the appellant would submit that the appellant/accused had suffered mental disorder and was taking treatment for the same from the additional defence witness Dr.Babu Balasingh. During the trial, he was suffering from episodic illness, as a consequence he could not even attend this case by engaging the counsel.



5.A perusal of the deposition of the witnesses and questions put in the cross examination would show that the contention raised by the learned counsel for the appellant is found correct. The medical record indicates that the appellant herein was living in a state of hallucination, which is identified by the Doctor as a "Schizo affective disorder". The Doctor who treated the appellant on 31.07.2014 had observed that for the past five years, he has medical history of talking excessively, writing petitions frequently, excess anger, braking articles, involving himself in public issues, claiming high about himself. The additional witness A.D.W.2 in her testimony would say that the family of the appellant have medical history of mental disorder.

6.Be that as it may, apart from medical history, which will enure the benefit of Section 84 of IPC, on the factual aspect also from reading the evidence of prosecution witnesses, this Court is of the opinion that the complaint itself has been emanated out of some political rivalry and malice.

7.Since the appellant herein has protested the conduct of the de-facto complainant that when the illegal taping of electricity for conducting street corner public meeting of communist party, a wordy quarrel has occurred, the wholistic view of the entire evidences placed before this Court including the additional evidence recorded at the behest of the order passed by this Court, which was not available before the trial Court, this Court concludes that the judgment of the Trial Court requires interference.

8. Accordingly, the judgment of the trial Court in Spl.S.C.No.47 of 2014, dated 06.02.2015, is set aside and the appeal is allowed. Fine amount if any, shall be refunded to the appellant. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl.side)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1.The I-Additional District and Sessions Judge (PCR),
Thanjavur.

2.The Judicial Magistrate, Thiruvaiyaru.

<https://hcservices.ecourts.gov.in/hcservices/>
3.The Chief Judicial Magistrate,
Tanjore at Kumbakonam.



4. The Deputy Superintendent of Police,
Thiruvaiyaru in Naducauvery Police Station,
Thanjavur District.

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy To:

The Record Keeper, Criminal Section,
Madurai Bench of Madras High Court,
Madurai. **(2 copies)**

+1CC to Mr.M.Karunanithi, Advocate, SR.No.79614

CRL.A[MD].No.45 of 2015
and

CRL.M.P.[MD].No.4640 of 2016
21.08.2018

SJI

ES/SKN.RSK/SAR 3/07.09.2018/4P/9C