

Bail Slip

The Accused namely 1. Nataraj, S/o.Sekar @ Gunasekaran, and 2.Mohan @ Mohanraj @ Kozhimohan, S/o.Selvaraj in S.C.No.159/11 on the file of the Additional District and Sessions Judge (F.T.C.NO.1), Coimbatore were directed to be released on bail in MP.1/12 in CrI.A.193/12 dt.10/04/12 on the file of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 08.03.2019	Pronounced on: 20.03.2019
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Coram:

The Honourable Dr.Justice G.Jayachandran

Criminal Appeal No.193 of 2012

1. Nataraj,
S/o.Sekar @ Gunasekaran,
No.1/1441, Thottathupalayam,
Neruperichal Village,
Tiruppur-2.
2. Mohan @ Mohanraj @ Kozhimohan,
S/o.Selvaraj,
No.134, Barathidasan Nagar,
S.A.P, Theatre Backside,
Tiruppur. ... Appellants/Accused 1 & 2

/versus/

State represented by:
The Inspector of Police,
Podanur Railway Police Station,
Coimbatore District.
Crime No.533/2010. ... Respondent/Complainant

Prayer: Criminal Appeal is filed under Section 374(2) of Cr.P.C, praying against the judgement dated 07.03.2012 made in S.C.No.159 of 2011 on the file of the Additional District and Sessions Judge (F.T.C.No.1) Coimbatore, convicting the accused for the offence under Section 307 of I.P.C and sentence imposed by the Court is 5 years R.I and to pay a fine of Rs.1000/- in default 1 year R.I.

For Appellants : Mr.S.N.Arun Kumar
for Mr.M.N.Balakrishnan

For Respondent : Mrs.P.Kritika Kamal
Government Advocate (Crl.Side)

J U D G M E N T

The appellants are the accused in S.C.No.159 of 2011 on the file of the Additional Sessions Judge (Fast Track Court No.1) Coimbatore. The trial Court held them guilty of offences under Section 307 of I.P.C. Sentenced them to undergo 5 years R.I and to pay a fine of Rs.1000/- each, in default to undergo 1 year R.I.

2. The prosecution case is that on 17.10.2010, at about 7.00 p.m near Tiruppur Railway Goods shed, A1-Nataraj stabbed Venkatesan in his abdomen twice and cut his chin with knife for not giving money to buy liquor. A2-Mohan @ Mohanraj who accompanies A1-Nataraj rolled Venkatesan in the ground. Later Venkatesan was found unconscious stage. He was taken to the Coimbatore Medical College Hospital for treatment. The next day about 00.15 hrs, Pothanoor Railway Police received the intimation from the Hospital about the admission of Venkatesan in the Hospital. PW.8 Mylerum Perumal, Sub-Inspector of Police went to the hospital recorded the statement of the victim Venkatesan and came to the station and registered the F.I.R at about 9.30 am. PW.9 Manikam, Inspector of Police took up the investigation. On 07.11.2010 arrested A1-Nataraj. Based on the confession statement of A1, the Knife used for the crime was recovered. The next day A2-Mohan @ Mohanraj was arrested. The confession statements of A1 and A2 disclosed their involvement in the crime.

3. On completion of the investigation, final report against A1 and A2 was filed. The Additional Sessions Judge on committal, framed charges under Section 307 of I.P.C and tried the accused.

4. To prove the case, the prosecution has examined 9 witnesses. 9 Exhibits and 2 material objects were marked.

5. The trial Court has accepted the case of the prosecution spoken through these evidence that, PW.1 Venkatesan had gone along with A1 and A2 to Errataikan Bridge. After consuming the liquor, to have some more, they have gone to the TASMAL shop. PW.3 who was present there along with his friend Periyasami to buy alcohol saw four persons taking drinks. Three of them left the shop towards goods shed, after buying ½ bottle liquor. Those three persons are the A1-Nataraj, A2-Mohan @ Mohanraj and PW.1 (Venkatesan). The Fourth person stayed at bar

lying down intoxicated. PW.6 Dr.Saravanan, the duty doctor at Tiruppur Head Quarters Government Hospital on 17.10.2010 at about 10.25 p.m treated PW.1-Venkatesan who was brought to the hospital in 108 Ambulance by Sub Inspector of Police attached to Tiruppur North Police Station. PW.6 Dr.Saravanan has found two incised injuries on the abdomen and one incised wound in the chin. After giving first aid to PW.1, he has recommended the patient to be shifted to Government Hospital, Coimbatore for further treatment. After surgery at Government Hospital, Coimbatore. PW.1 was discharged on 25.10.2010. The wound in the abdomen exposing the small intestine lead to closure of it by surgery was opined to be grievous in nature. PW.8, who received intimation about the Medico legal case from Tiruppur hospital, went to Tiruppur Hospital, he learned that the patient was shifted to Government Hospital Coimbatore. So, he went to Coimbatore recorded the statement of PW.1 and registered First Information Report (Ex.P.8). PW.9 Manikam, Inspector of Police who took up the investigation went to the scene of crime collected blood stain news paper found in the SOC under mahazar Ex.P.3 in the presence of witnesses Babu and Satyanarayanan (PW.4). On further investigation with the victim PW.1 on 19.10.2010, the victim disclosed the names of his assailants and told the I.O that out of fear he did not disclose the assailants name though he knew them. Later the accused were arrested based on the confession, the knife M.O.1 was recovered under Mahazar (Ex.P.5) in the presence of PW.5. The wound certificate (Ex.P.6) discloses the nature of injury was grievous in nature and the intention of the A1 and A2 was to commit murder, as gathered from ocular evidence of the victim PW.1. The trial Court has convicted A1 and A2 for attempt to commit murder.

6. The learned counsel for the appellant though submit that the delay in registering the F.I.R is unexplained and had lead to fabrication. However, this Court on considering the sequence of event as spoken by PW.8 indicates there was no delay in registering the F.I.R on the part of the respondent police.

7. As per the wound certificate, the patient was brought to the hospital at about 10.25 p.m on 17.10.2010 in unconscious state. PW.2 has seen the accused and the victim taking drinks near Goods shed and quarrelling at about 6.00 p.m. PW.3 also corroborates the presence of victim and accused in the bar, seen together on the evening of 17.10.2010. The victim was noticed lying unconscious and taken to the hospital in an ambulance. The person who accompanies PW.1 to the hospital not examined. Nevertheless, the factum of PW.1 seen with injuries near Good shed and he was shifted to hospital is well established through the witnesses fixing the probable time of occurrence after 6.00 p.m and before 10.25 p.m. The intimation has been received by PW.8 at about 00.15 hours on 18.10.2010.

When he went to Tiruppur hospital, he was informed that the patient has been shifted to Coimbatore. Therefore, on 18.10.2010 at about 9.30 a.m, First Information Report is registered. The delay being properly explained, the contention doubting the F.I.R is unsustainable.

8. The victim has not disclosed the names of his assailant through he know them and they have all gone together to drink and ended in the crime of violent assault. The reason for not disclosing their names at the first instance is explained by PW.1 and the said explanation is quite reasonable and acceptable.

9. The victim was found in unconscious state with injuries in a secluded place. He was taken to the hospital, after surgery he has survived. The victim has identified A1-Nataraj and A2-Mohan @ Mohanraj as the assailants. PW.2 and PW.3 has seen them all together just prior to the occurrence. In the given circumstances, the trial Court has rightly concluded the accused A1 and A2 are guilty of offence under Section 307 of I.P.C and sentenced them to undergo five years R.I and to pay a fine of Rs.1,000/- each, in default to undergo 1 year R.I. Therefore, this appeal challenging the judgment of the trial Court is not sustainable.

10. Accordingly, the Criminal Appeal is dismissed. The judgment of the trial Court in S.c.No.159 of 2011, dated 07.03.2012 is confirmed. Bail bond stands cancelled. The accused shall be secured to undergo the remaining period of imprisonment. The period of imprisonment already undergo shall be set off under Section 428 of I.P.C.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

bsm

To,

1. The Additional District and Sessions Judge (FTC.No.1)
Coimbatore

2. The Public Prosecutor(Crl.Side), High Court, Madras.

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3. The Inspector of Police, Podanur Railway Police Station,
Coimbatore District.

4. The Section Officer, Criminal Section (Records), High Court,
Madras.

5.The Judicial Magistrate No.VI, Coimbatore

6.The Chief Judicial No.VI, Coimbatore.

7.The Superintendent,
Central Prison,
Coimbatore.

+1cc to Mr.M.N.Balakrishnan, advocate sr.27258

Criminal Appeal No.193 of 2012

rv(co)
nr 12/06/2019



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