

BAIL SLIP

The Appellant herein/Accused viz., Paramasivam, S/o.Kaliyaperumal was released on bail vide order of this Court dated 28.04.2011 made in Crl.M.P. No.1 of 2011 in CRL.R.C.No.697/2011.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.697 of 2011

K.Paramasivam

...Petitioner

Vs.

State rep. by
The Inspector of Police
Manalmedu Police Station,
Nagapattinam District.

...Respondent

(Cr.No.291/2005)

Prayer:- This Criminal Revision is filed under Sections 397 and 401 of Code of Criminal Procedure to call for the records relating to the conviction and sentence passed by the learned District and Sessions Judge, Nagapattinam, in Crl.A.No.125 of 2006 dated 25.02.2011 modifying the judgment dated 02.11.2006 made in S.C.No.46 of 2006 on the file of the Additional Assistant Sessions Judge, Mayiladuthurai, and set aside the same.

For Petitioner : Mr.S.Kumaradevan

For Respondent : Mr.T.Shanmugarajeswaran
Govt. Advocate (Crl.Side)

ORDER

The criminal revision has been filed against the judgment of the learned District and Sessions Judge, Nagapattinam, in Crl.A.No.125 of 2006 dated 25.02.2011 modifying the judgment dated 02.11.2006 made in S.C.No.46 of 2006 passed by the learned Additional Assistant Sessions Judge, Mayiladuthurai.

2 The respondent police registered a case against the petitioner and another accused for the offence punishable under sections 294(b), 352 and 307 against the petitioner, who was

arrayed as A1 and 352 against the another accused, stating that the accused, due to previous enmity regarding removal of the petitioner from Moovender Munnetra Kalagam, had attacked P.Ws.1 & 2 and caused injuries. After investigation, the respondent police laid a charge sheet, which was taken on file in S.C.No.46 of 2006. The learned Additional Assistant Sessions Judge, Mayiladuthurai, after trial, found the petitioner guilty for the offence under Section 307 and acquitted for the offence under Sections 294(b) and 352 and acquitted the other accused also. By judgment dated 02.11.2006, the learned Additional Assistant Sessions Judge, convicted the petitioner and sentenced him to undergo rigorous imprisonment for a period of five years and to pay fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for a further period of three months for the offence under Section 307 of IPC. Aggrieved against the said judgment of conviction, the petitioner is before this Court with the present criminal revision.

3 Learned counsel appearing for the petitioner, would submit that P.W.1 is complainant, P.W.2 is wife of P.W.1 and P.W.3 is son of P.W.1 and P.W.2. P.Ws.2 & 3 are interested witnesses and they are not eye witness, they have not seen the occurrence and after the occurrence only they came to the place. The doctor, who has given treatment and done operation on the injured witness, has not been examined in this case. In fact, against P.W.1 also several cases are pending and he had bad antecedents and false case has been foisted against the petitioner. Both the Courts below had failed to consider the fact that there is no corroboration for evidence of P.W.1 and P.Ws.2 & 3 are interested witnesses and the Doctor has also not examined, which are fatal to the case of the prosecution, and erroneously convicted the petitioner, which warrants interference.

4 The learned Government Advocate (Crl.Side) appearing for the state would submit that the revision petitioner due to previous enmity, had taken the Soda Bottle from the shop of P.W.4 and attacked P.W.1 and he sustained injuries. Even though, the Doctor, who has given treatment to the injured witnesses was not examined, the duty Doctor has been examined and he stated that the injuries sustained by P.W.1 is grievous in nature. From the evidence of P.W.4 and the medical evidence amply proved that the revision petitioner attacked P.W.1 with Soda Bottle, which offence comes under Section 307 of IPC. Prosecution has proved its case beyond reasonable doubt and both the Courts below had rightly held that the revision petitioner committed offence under Section 307 of IPC. Even though, the trial Court convicted the petitioner and imposed sentence of five years, the lower appellate Court has reduced the sentence to three years and there is no reason to interfere with the same.

5 Heard the learned counsel appearing on either side and perused the materials available on record.

6 On reading of the evidence of P.Ws.1, 2 and 4, prosecution has proved that the petitioner/accused took Soda Bottle from the shop of P.W.4 and attacked P.W.1. Evidence of P.W.1 has been corroborated with the evidence of P.W.4, in whose shop the accused had taken the Soda Bottle to attack P.W.1. P.W.9, the Doctor, one who made entries in the Accident Register/Ex.P7, and the Medical Officer, who attached to the Hospital, P.W.11 has spoken about the injuries sustained by P.W.1 and issued wound certificate Ex.P9. On reading of entire evidence of P.Ws.1, 2, 4, 9 and 11, prosecution has proved its case beyond reasonable doubt. The lower appellate Court, being a final Court of fact finding, had re-appreciated entire evidence and confirmed the conviction and modified the sentence, in which, this Court does not find any perversity. This Court, while exercising revisional jurisdiction, cannot re-appreciate entire evidence and substitute its own views on the findings given by the Courts below, unless there exists perversity. This Court does not find any perversity in the judgments of both the Courts below and there is no merit in the revision.

7 In the result, the criminal revision case is dismissed as devoid of merit and substance. Trial Court is directed to secure the custody of the petitioner/accused to undergo remaining period of sentence, if any.

cgi

Sd/-
Assistant Registrar (CS III)

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सत्यमेव जयते
Sub Assistant Registrar

To

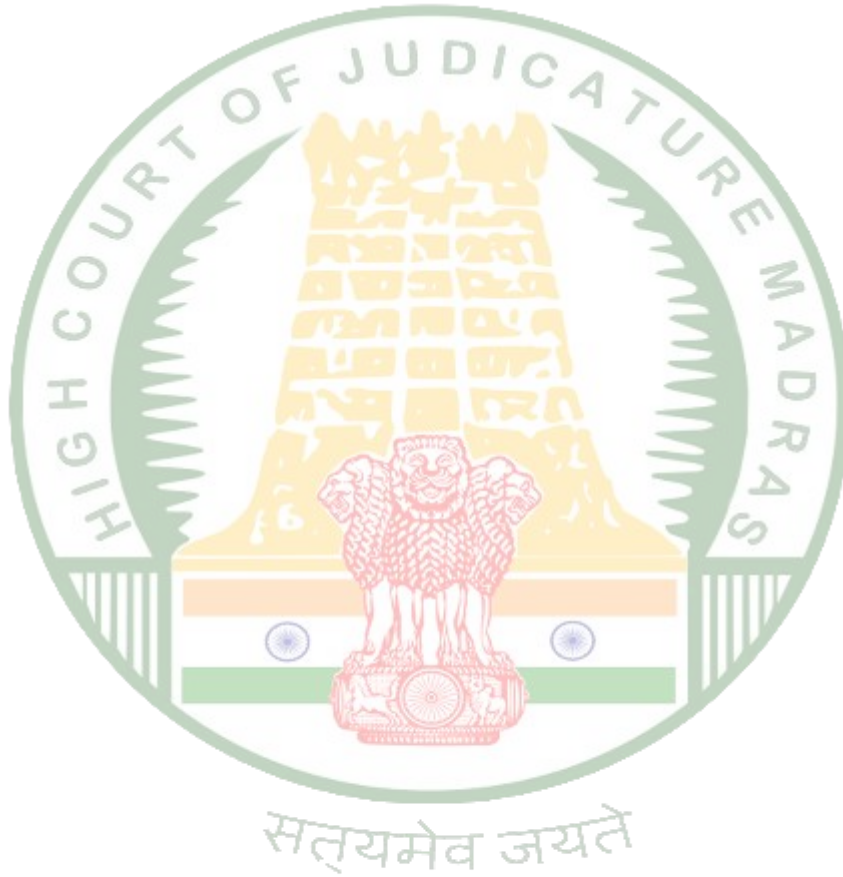
1. The District and Sessions Judge,
Nagapattinam.
2. The Additional Assistant Sessions Judge,
Mayiladuthurai.
3. The Public Prosecutor,
High Court of Madras.

4. The Inspector of Police,
Manalmedu Police Station,
Nagapattinam District.

+1cc to Mr.S.Kumaradevan, Advocate, SR.No.64959

Cr1.R.C.No.697 of 2011

Kak(01.10.2019)



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