

Bail Slip

The Petitioners/Accused namely 1. Raja @ Raj Kumar S/o. Doss aged 33 years 2. Kumar @ Sivakumar S/o. Ramachandran aged 26 years were released on bail as per order of this Hon'ble Court dated 05.09.2012 made in M.P. 1/2012 in Cr1.R.C.No.1064 of 2012 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Cr1.R.C.No.1064 of 2012

1.Raja @ Rajkumar

2.Kumar @ Sivakumar

...Petitioners/Accused

Vs

State Rep., by,
The Inspector of Police,
B-3 Kattur Police Station,
Crime No.1753 of 2007

...Respondent/Complainant

PRAYER: Criminal Revision filed under Article 397 r/w 401 of Criminal Procedure Code, to set aside the order of conviction and sentence passed in C.A.No.116 of 2012 on the file of the I Additional District and Sessions Judge, Coimbatore dated 21.07.2012 confirming the order of conviction passed in C.C.No.711 of 2007 on the file of the learned Judicial Magistrate Court No-II, Coimbatore dated 12.03.2012.

For Petitioners : Mr.V.V.Sairam

For Respondent : Mr.R.Shanmugarajeswaran

Government Advocate (Criminal Side)

O R D E R

The respondent police registered a case against the revision petitioners for the offence under Section 324 (3 counts), 506 (ii) IPC in Crime No.1753 of 2007. After, completion of the investigation, the respondent police laid charge sheet before the Judicial Magistrate No-II, Coimbatore, for the above said offences.

2 The learned Judicial Magistrate, after completing trial, come to the conclusion that the revision petitioners have committed the offence under Section 324 (2 counts) and acquitted the revision petitioner for the offence under Section 506(ii). Challenging the said judgment of the trial Court, the revision petitioners have preferred the appeal before the learned Principal and Sessions Judge, Coimbatore in CrI.A.No.116 of 2012. The learned Principal and Sessions Judge, made over the case to the I Additional District and Sessions Judge, Coimbatore, for disposal.

3 The learned I Additional District and Sessions Judge, Coimbatore, after hearing the arguments come to the conclusion that the prosecution has proved its case beyond reasonable doubt. Hence, the appeal was dismissed and the judgment dated 12.03.2012 in C.C.No.711 of 2007 passed by the Learned Judicial Magistrate No-II, Coimbatore, is thereby confirmed. Challenging the judgment of the I Additional District and Sessions Judge, Coimbatore, in CrI.A.No.116 of 2012 the petitioners have filed the present Revision Case before this Court.

4 The learned counsel for the revision petitioners would submit that, initially the charges were framed for the offences under Section 506(ii) and 324 IPC. The learned Judicial Magistrate No-II, Coimbatore, come to the conclusion that the prosecution has failed to prove the case for the offence under Section 506(ii) IPC and acquitted the petitioners for the offence under Section 506(ii) IPC and the very same benefit would have been given for the other offence under Section 324 IPC and the injury is only simple in nature and it is not grievous. Further, the learned counsel for the petitioners pray to consider the facts and circumstances of the case and to reduce the period of sentence passed by the trial Court and confirmed by the lower Appellate Court.

5 The learned Government Advocate (Criminal Side) would submit that P.W.1 and P.W.2 are the injured witnesses and they have clearly spoken about the occurrence and also involvement of the revision petitioners. The first petitioner was armed with a knife and the second petitioner was armed with a bottle and caused injuries to the victim. The prosecution has proved its case beyond reasonable doubt. There is no sufficient materials to disbelieve the offence. On conjoint reading of the evidence and the Doctor evidences disprove that the revision petitioners have committed the offence punishable under Section 324 IPC. Hence, both the Courts below have rightly appreciated the

evidence and there is no need to interfere with the judgment passed by both the Courts below.

6 Heard, the learned counsel for the revision petitioners and the learned Government Advocate (Criminal Side) for the respondent and perused the material available on record.

7 The case of the prosecution is that on 20.09.2007, at about 08.30p.m, while P.W.1 to P.W.3 were standing outside their shop, the revision petitioners came to the spot. The first petitioner was armed with a knife and the second petitioner was armed with a bottle. They picked up quarrel and stabbed P.W.2 on his head and the second petitioner assaulted with the bottle on the victim's head. P.W.1 rushed to prevent it but the assailants attacked him consequent to which he suffered injuries in both the hands. When P.W.2 raised alarm, the petitioners intimidated him and P.W.4, P.W.5 and P.W.6 who had rushed to the spot on hearing the alarm raised.

8 The respondent police investigated the matter and laid a charge sheet. During the trial, in order to prove the case of the prosecution they have examined as many as 13 witnesses and marked 12 documents and 2 exhibits were marked. Out of which, P.W.1 and P.W.2 are the eye witnesses as well as they are injured witnesses. P.W.9 and P.W.10 are the Doctors. P.W.4 to P.W.6 are the neighbours who have come to the spot after hearing the notice. Subsequent, to the occurrence, P.W.9 has spoken about Ex.P5 and E.P6 issued by him to the victim. P.W.10 Doctor one who has given treatment to P.W.1 also issued Ex.P7.

9 On reading of the evidence of P.W.2 and the evidence of P.W.9, P.W.10 and also the wound certificate, it is apparent that the prosecution has proved its case beyond reasonable doubt. The lower appellate Court is the fact finding Court and has appreciated the entire evidence and found the revision petitioners guilty for the offence under Section 324 (2 counts) IPC.

10 Considering the evidence of P.W.9 and P.W.10 and the wound certificate Ex.P5 to Ex.P7, it is concluded that the revision petitioners have used dangerous weapon. Though, the injuries are not that much serious, considering the weapons used by the revision petitioners, the trial Court imposed the sentence of 6 months Imprisonment and the trial Court found that there is no materials to convict the revision petitioner for the

offence under Section 506(ii)IPC and rightly found guilt of the petitioner for the offence under Section 324(2counts) IPC. Though, the lower appellate Court is a fact finding Court and it re-appreciated the evidence independently and it has also come to the conclusion that the revision petitioners have committed the offence punishable under Section 324 IPC, dismissed the appeal and confirmed the conviction imposed by the trial Court.

11 While exercising the revisional jurisdiction, this Court cannot re-appreciate the entire evidences and there is no perversity in the findings recorded by the first appellate Court. This Court cannot substitute its own view, when there is no perversity in the appreciation of the evidence by the lower appellate Court. However, this Court has to see whether there is any perversity in appreciation of evidence while deciding the case by the appellate Court. This Court does not find any merit in the revision and there is no sound reason and ground to interfere with the judgment of the lower appellate Court.

12 However, considering the facts and circumstances of this case, and the age of the petitioners and there is no antecedents recorded, this Court is inclined to reduce the sentence imposed on the revision petitioners from 6 months rigorous imprisonment to 3 months rigorous imprisonment, which will meet the ends of justice.

13 With the above said modification, this Criminal Revision Case is partly allowed. The trial Court is directed to secure the custody of the accused to undergo remaining period of sentence, if any.

s/d-

Assistant Registrar(CS VI)

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Sub-Assistant Registrar

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To

1.The I Additional District and Sessions Judge
Coimbatore

2.The Judicial Magistrate Court No.II,
Coimbatore

3.The Chief Judicial Magistrate
Coimbatore

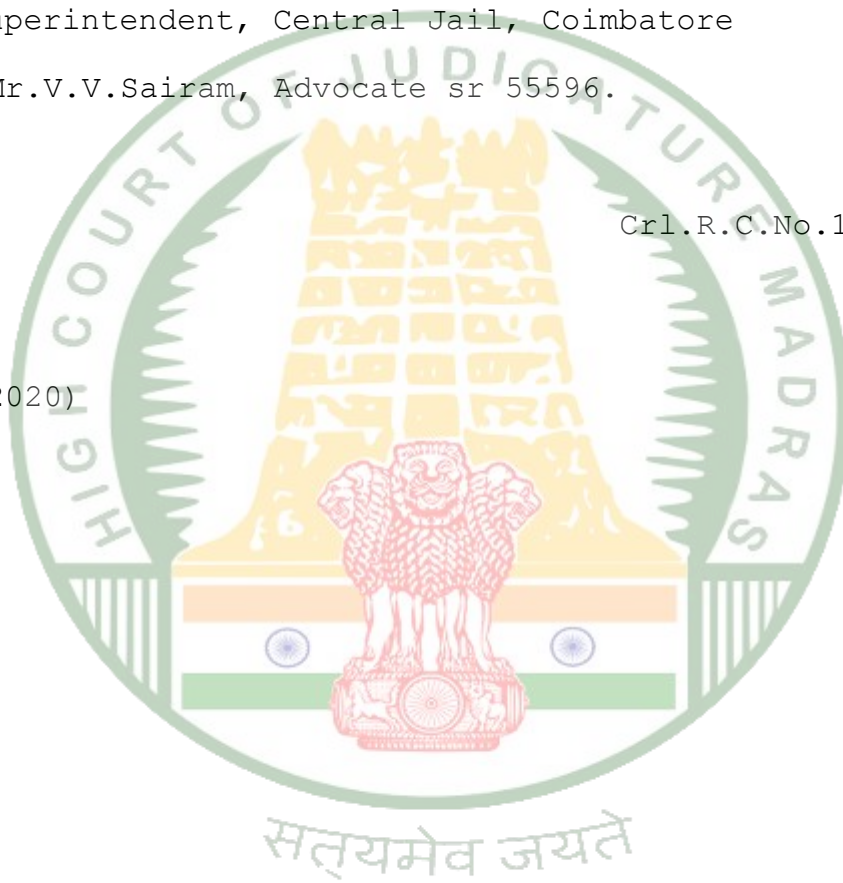
4.The Inspector of Police
B3 Kattur Police Station
Coimbatore

5.The Superintendent, Central Jail, Coimbatore

+1 CC to Mr.V.V.Sairam, Advocate sr 55596.

Crl.R.C.No.1064 of 2012

SR(CO)
SP(31/01/2020)



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