

Bail Slip

The Petitioner/Appellants/Accused namely 1.Ramesh @ Kalyanaraman M/31 S/o.Sundaramurthy 2.Sundaramurthy,m/58, S/o.Kalyanasundram were directed to be released on bail as per the order of this Court dated 28.09.2012 in CrI.Mp.1/2012 in CrI.R.C.No.1226/2012 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2019

CORAM :

THE HON'BLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.1226 of 2012

and

CrI.M.P.No.1 of 2012

1. Ramesh @ Kalyanaraman

2. Sundaramurthy

... Petitioners/Accused

Vs.

The Inspector of Police,
Edayur Police Station,
Edayur.

... Respondent/Complainant

PRAYER : The Criminal Revision is filed under Section 397 read with 401 of Code of Criminal Procedure, to set aside the judgment made in C.A.No.53 of 2008 dated 24.08.2012 on the file of the learned District and Sessions Judge, Tiruvarur, modifying the judgment in S.C.No.16 of 2006 dated 23.11.2006 on the file of the learned Assistant Sessions Judge, Mannargudi.

For Petitioner : Mr.K.Ayyappan - No appearance

For Respondent : Mr.T.Shanmuga Rajeswaran
Govt. Advocate (CrI. Side)

O R D E R

The revision has been filed to set aside the judgment in C.A.No.53 of 2008 dated 24.08.2012 on the file of the learned District and Sessions Judge, Tiruvarur, modifying the judgment in S.C.No.16 of 2006 dated 23.11.2006 on the file of the learned Assistant Sessions Judge, Mannargudi.

2. The respondent police has registered a case in Crime No.68 of 2003 against the revision petitioners for the offences under Section 294(b), 506(ii) and 307 IPC. After completing investigation, the respondent police filed charge sheet against the revision petitioners before the learned Judicial Magistrate, Thiruthuraipoondi. The learned Magistrate taken the charge sheet on file in P.R.C.No.25 of 2005. Since the offences are triable by the Court of Sessions, the learned Magistrate, after completing the formalities, has committed the case to the learned Principal District Judge, Tiruvarur. The learned Principal District Judge has taken the case on file in S.C.No.16 of 2006 and made over the same to the learned Assistant Sessions Judge, Mannargudi for disposal. The learned Assistant Sessions Judge, Mannagudi, after completing the procedures and formalities, framed charges against the revision petitioners for the offences under Section 294(b), 506(ii) and 307 IPC. After completing the trial, the learned Assistant Sessions Judge, found the petitioners guilty for the above said offences and convicted and sentenced them to undergo three months simple imprisonment and to pay a fine of Rs.500/- each, in default, to undergo three months simple imprisonment for the offence under Section 294(b) IPC; and convicted the petitioners and sentenced them to undergo three years simple imprisonment and to pay a fine of Rs.1,000/- each, in default, to undergo three months simple imprisonment for the offence under Section 506(ii) IPC; and convicted the petitioners and sentenced them to undergo five years rigorous imprisonment and to pay a fine of Rs.5,000/- each, in default, to undergo three months simple imprisonment for the offence under Section 307 IPC.

3. Challenging the said judgment of the learned Sessions Judge, Mannargudi, the petitioners have filed an appeal in C.A.No.53 of 2008 before the learned District and Sessions Judge, Tiruvarur. After hearing the arguments on either side and considering the judgment of the learned Assistant Sessions Judge and on a perusal of the records, the learned District and Sessions Judge, confirmed the conviction of both the accused and confirmed the sentence for the offence under Section 294(b) and 506(ii) IPC and modified the sentence from five years to four years rigorous imprisonment for the offence under Section 307 IPC. Challenging the said judgment dated 24.08.2012, the convicts have filed the present revision before this Court.

4. When the matter was taken up for hearing on 03.07.2019, there was no representation on behalf of the petitioners. The revision is pending from 2012. Since the revision is pending for more than seven years, the matter was posted on 26.07.2019 'for final disposal'. Even today also, there is no representation on behalf of the petitioners. Therefore, this Court is inclined to

dispose of the revision on merits.

5. The learned Government Advocate (Crl. Side) would submit that P.W.1 is the victim and P.W.2 is the Doctor, who has given treatment to the victim. P.W.3, P.W.4 are the mother and wife of the victim and the revision petitioners are their neighbour. Due to previous enmity, the revision petitioners came to the house of P.W.1/Victim, scolded him in filthy language, threatened him and attacked with deadly weapons. P.W.1 sustained injuries and he was taken to the hospital. P.W.2 Doctor has admitted the victim in the hospital for treatment and also entered the same in the Accident Register and given would certificate viz., Ex.P2. From the evidences of the victim and the Doctor, it is seen that the injuries were caused by the accused using deadly weapons and the injuries are simple in nature. Both the Courts have rightly held that the revision petitioners are committed the offences under Section 294(b), 506 (ii) and 307 IPC. There is no reason to interfere with the judgments of both the Courts below.

6. Heard the learned Government Advocate (Crl. side) and perused the materials available on record. There is no representation on behalf of the petitioners.

7. P.W.1 is the injured witness and P.W.3 and P.W.4 are mother and wife of P.W.1. The revision petitioners are their neighbours. P.W.2 the Doctor, has clearly stated that on 21.06.2003, while he was on duty in the Government Hospital, Thiruthuraipoondi, the victim Pitchai kannu came to the hospital with his wife. They have stated that two known persons have assaulted P.W.1 with iron rod. The Doctor has examined the victim and found that there were two injuries and issued wound certificate viz., Ex.P2. P.W.3 and P.W.4 are interested witnesses. Therefore, the complainant happened to be an injured witness. Unless there is a strong reason given by the defence, the evidence of the injured witness cannot be discarded.

8. Admittedly, in this case, P.W.1 sustained injuries as stated by P.W.2. The previous motive had been established by P.W.1, P.W.3 and P.W.4 and the weapons have also been identified by the witnesses. Since the accused are only neighbours, there is no doubt about identification. Both the Courts below being fact finding Courts have rightly re-appreciated the evidence on the side of the prosecution and convicted the revision petitioners. The lower appellate Court being the final Court of fact finding, re-appreciated the entire evidence and come to an individual conclusion that the revision petitioners/accused have committed the offences under Section 294(b), 506(ii) and 307 IPC and the prosecution has proved its case beyond reasonable doubt. Therefore, the learned District and Sessions Judge has confirmed

the conviction and sentence of the learned Assistant Sessions Judge and modified the sentence for the offence under Section 307 IPC from five years to four years.

9. It is well settled proposition of law that while exercising the revisional jurisdiction, the revisional Court has no power as appellate Court to re-appreciate entire evidence. Unless there is a perversity in appreciation of the evidence, normally, the revisional Court will not interfere with the finding given by the lower appellate Court.

10. On careful reading of the entire evidence of the prosecution and findings of both the Courts below, this Court does not find any perversity in appreciation of the evidences and there is no reason to interfere with the judgment of both the Courts below and there is no merits in the revision.

11. Considering the facts and circumstances of the case and that the nature of injuries sustained by P.W.1 are simple in nature, in the interest of justice, this Court is inclined to modify the sentence from four years to three years for the offence under Section 307 IPC, which will meet ends of justice. The conviction and sentence imposed on the petitioner for other offences is sustained and unaltered.

12. With the above modification, this revision is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The District and Sessions Judge, Tiruvarur.

2. The Assistant Sessions Judge, Mannargudi

3. The Inspector of Police,
Edayur Police Station,
Edayur.

4. The Superintendent,
Central Prison,
Trichy.

5. The Public Prosecutor,
High Court, Madras.

Crl.R.C.No.1226 of 2012
and
Crl.M.P.No.1 of 2012

sr(co)
nr 15/10/2019



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