

Bail Slip

The Petitioner/Accused,namely Sekar S/o.Pakkirisamy Accused was granted bail in and by the order of this Court dated 21.11.2012 made in MP.NO.1/12 IN CRL RC.NO.1310/2012 on the file of this Hon'ble court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1310 of 2012

and

Crl.M.P.No.1 of 2012

Sekar

.... Petitioner

Vs

The State rep by its
The Sub-Inspector of Police,
Keelaiyur Police Station,
Nagappattinam District.
(Crime No.341/2001)

.. Respondent

Criminal Revision Cases filed under Sections 397 and 401 Cr.P.C., praying to set aside the judgment dated 20.02.2012 in CRL.A.No.99 of 2010 passed by the learned District and Sessions Judge, Nagappattinam, partly modified the Judgment dated 03.09.2010 in C.C.No.211 of 2002 on the file of the learned Judicial Magistrate No.2, Nagappattinam.

For Petitioner : Ms.Greetha Senthilkumar

For respondent : Mr.T.Shanmugarajeswaran
Government Advocate (Crl. Side)

O R D E R
सत्यमेव जयते

This Criminal Revision Case has been filed to set aside the judgment dated 20.02.2012 in Crl.A.No.99 of 2010 passed by the learned District and Sessions Judge, Nagappattinam, partly modified the Judgment dated 03.09.2010 in C.C.No.211 of 2002 on the file of the learned Judicial Magistrate No.2, Nagappattinam.

2. The respondent police registered a case in Crime No.341 of 2001 against the revision petitioner herein for the offences under Sections 341, 294(b), 324 and 506(ii) of IPC. After completing investigation, the respondent police laid a charge sheet before the learned Judicial Magistrate No.2,

Nagapattinam and the same was taken on file in C.C.No.211 of 2005. After trial, the learned Judicial Magistrate found that the prosecution has proved its case beyond reasonable doubts and convicted the revision petitioner/accused by judgment dated 03.09.2010 and imposed him to pay fine of Rs.300/-, in default, 3 weeks Simple Imprisonment for the offence under Section 341 of IPC and to pay fine of Rs.300/-, in default, 3 weeks Simple Imprisonment for the offence under Section 294(b) of IPC and sentenced him to undergo 6 months Simple Imprisonment for the offence under Section 324 of IPC and to undergo 3 months Simple Imprisonment for the offence under Section 506(ii) of IPC. Trial Court directed the sentences to run concurrently. Challenging the conviction and sentence, the accused filed an appeal in CrI.A.No.99 of 2010 before the learned District and Sessions Judge, Nagapattinam. After hearing the arguments, the learned Sessions Judge partly allowed the appeal on 20.02.2012 by modifying the sentence to three months instead of 6 months Simple Imprisonment for the offence under Section 324 of IPC. There against, the accused preferred the present revision before this Court.

3. The learned counsel for the petitioner would submit that though PWs-3 to 5 are the eye witnesses, they have not supported the case. Except PW-1, the other witnesses turned hostile. There is no corroboration between the evidence of prosecution. PW-3/Doctor, who has given the treatment to the victim, has stated that the injury sustained by the victim is simple in nature. Though PW-1/victim told PW-3/Doctor that few persons attacked him at the time of admission in the hospital, charge sheet was laid against the petitioner alone, which creates suspicious. The prosecution has not investigated the matter in fair manner and foisted a false case against the revision petitioner herein warrants interference.

4. The learned Government Advocate (CrI. Side) appearing for the respondent would submit that PW-1 is the victim, who sustained injury, PW-2 is the eye witness, PW-3 is the Doctor, who has given treatment to PW-1/victim and PW-4 is the mahazar witness. Though PW-4 admitted the signature in the mahazar, he has not supported the case of the prosecution. A reading of the evidence of PWs-1 to 3 reveals that the prosecution has proved its case beyond reasonable doubts. Though the learned Magistrate awarded the sentence of 6 months Simple Imprisonment for the offence under Section 324 of IPC, the learned Sessions Judge, after considering the nature of the injury sustained by PW-1, reduced the sentence to 3 months, which warrants no interference.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent and also perused the entire materials available on record.

6. The case of the prosecution is that PWs-1, 2, 4, 5 and 6 are the residents of Vizhunthamavadi and the accused is also the resident of the same village. On 26.12.2001 at about 7.30.a.m, PW-1 objected the accused visiting the house of one Vanaja, who was residing opposite to the house of PW-1, annoyed by that, the accused abused PW-1 with vituperative language and cut PW-1 with aruval and caused cut injuries on his right hand, left hand upper side and back. When PWs-2, 4 and 5 and others prevented PW-1, the accused threatened them that if anyone come to prevent PW-1, he will murder them. Though PWs-2, 4 and 5 are stated to have been eye witnesses, they have not supported the case of the prosecution. In order to avoid the misunderstanding with the neighbours, the witnesses have turned hostile subsequently. The occurrence had taken place in the year 2001 and the witnesses have been examined in the year 2003 i.e, after two years. However, the evidence of PW-1/victim, it is clear that the revision petitioner assaulted him. The evidence of PW-3/doctor corroborated the same. If the case like this, the evidence of PW-1/injured witness is sufficient to convict the accused, unless there is doubted trustworthiness of the injured witness. After sustaining injury, the victim immediately admitted in the hospital. A reading of complaint and FIR reveals that the revision petitioner alone attacked the victim and there is no contradiction. Though PW-3/Doctor has stated that few persons attacked PW-1, the subsequent evidence stated that the revision petitioner alone attacked PW-1. The trial Court rightly appreciated the evidence and convicted the revision petitioner/accused. The Appellate court, being the final Court of fact finding, has rightly re-appreciated the entire evidence and found that the revision petitioner caused injuries to the victim and also given independent finding by modifying the sentence.

7. On reading of the evidence of PW-1/victim, it is seen that the injuries sustained by PW-1 is simple in nature. The Appellate Court has rightly set aside the judgment of the trial Court and also considering the nature of offence, it has modified the sentence for the offence under Section 324 of IPC. This Court finds that there is no perversity in the appreciation of the evidence by the lower Appellate Court. This Court cannot sit in the arm chair of the Appellate Court and re-appreciate the entire evidence. There is no reason to interfere with the judgments of the Courts below.

8. In the result, this Criminal Revision Case is dismissed. The judgment dated 20.02.2012 in CrI.A.No.99 of 2010 passed by the learned District and Sessions Judge, Nagappattinam, is hereby confirmed. The Trial Court is directed to secure the petitioner to undergo remaining period of sentence, if any. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

KMI

To

1. The District and Sessions Judge,
Nagappattinam.
2. The Judicial Magistrate-II,
Nagappattinam.
3. Do thro the Chief Judicial Magistrate,,Nagappattinam
4. The Sub-Inspector of Police,
Keelaiyur Police Station,
Nagappattinam District.
5. The Public Prosecutor,
High Court, Madras-104.
- 6.The Superintendent
Central Prison,Trichy.

Copy to;

The Section Officer, सत्यमेव जयते
Criminal Section,
High Court, Madras

CrI.R.C.No.1310 of 2012

A.SK(22/10/2019)

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