

Bail Slip

The Petitioner/Accused namely Palanivel S/o. Chinna Muthu, was directed to be released on bail as per order of this Court dated 01.11.2012 made in Crl.M.P. 1/2012 in Crl.R.C.No.1329 of 2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1329 of 2012

Palanivel

...Petitioner/A2

Vs

The State Rep. by
Inspector of Police,
Kallavi Police Station,
Uthangarai Taluk,
Krishnagiri District.
(Crime No.51 of 2003)

...Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, against the judgment passed by the learned Additional Sessions Judge, Krishnagiri in C.A.No.67 of 2010, dated 17.08.2012, confirming the trial Court judgment in C.C.No.282 of 2004 dated 08.11.2010 on the file of the learned District Munsif cum Judicial Magistrate, Uthangarai.

For Petitioner : Mr.K.Subburam

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

ORDER

This revision has been filed by the petitioner against the judgment passed by the learned Additional Sessions Judge, Krishnagiri in C.A.No.67 of 2010, dated 17.08.2012, confirming the judgment in C.C.No.282 of 2004 dated 08.11.2010, on the file of the learned District Munsif cum Judicial Magistrate, Uthangarai.

2. The respondent police has registered a case against the revision petitioner and one another in Crime No.151 of 2003 for the offences under Section 341 and 325 IPC. After investigation, the respondent police filed a charge sheet against the petitioner and other accused for offence under Sections 341 and 325 IPC, before the learned District Munsif-cum-Judicial Magistrate, Uthangarai. The learned Judicial Magistrate took the charge sheet on file in C.C.No.282 of 2004. During trial, before the trial Court, the respondent police examined 9 witnesses and marked 7 documents and produced one material object. On the side of the defence, there was no oral and documentary evidence produced. After full-fledged trial, the learned District Munsif-cum-Judicial Magistrate, found the petitioner/A2 guilty for the offence under Section 325 IPC and convicted and sentenced him to undergo three months imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for four weeks.

3. Aggrieved against the said judgment in C.C.No.282 of 2004, dated 08.11.2010, the convicts have filed an appeal before the learned Principal Sessions Judge, Krishnagiri in C.A.No.67 of 2010. After hearing arguments advanced on either side elaborate enquiry, the learned Additional Sessions Judge, allowed the appeal in part. The conviction and sentence passed by the learned District Munsif cum Judicial Magistrate, in C.C.No.282 of 2004, dated 08.11.2010 against A1 was set aside; and the conviction and sentence imposed against A2 was confirmed. Challenging the said judgment passed by the learned Additional Sessions Judge, Krishnagiri, in C.A.No.67 of 2010 dated 17.08.2012, the petitioner has filed the present revision before this Court.

4. The learned counsel for the petitioner would submit that there are lot of material contradictions between the prosecution witnesses and many of them turned hostile. They have not supported the case of the prosecution. The prosecution has also failed to prove its case beyond reasonable doubt. Both the Courts below have failed to appreciate the evidence of the prosecution. After arguments, the Appellate Court has acquitted A1 for the offence under Section 341 of IPC granting him benefit of doubt and the very same benefit of doubt should have been extended to the revision petitioner also. The weapons alleged to have been used by the revision petitioner has not been established. The prosecution witnesses have not supported the case of the prosecution and both the Courts have erroneously convicted the petitioner, which warrants interference.

5. The learned Government Advocate(Crl. side) would submit that the victim is the husband of A1 and father of A2. When the

victim/P.W.3 was standing in his house, A1 caught hold her husband, A2/son of the victim has taken a wooden stick and assaulted the victim on his both knees, due to which he sustained grievous injuries and he was taken to hospital. P.W.6 Doctor, who treated the victim, found that the knee was fractured and the injuries sustained by the victim were grievous in nature. The prosecution has proved its case beyond all reasonable doubt. Both the Courts below have rightly convicted the petitioner and there is no need to interfere with the judgments of both the Courts below.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Crl. side) and perused the materials available on record.

7. It is the case of the prosecution that on 05.02.2003 at about 14.00 hrs. when P.W.2 was standing in front of his house, A1 caught hold of her husband and second accused attacked him with wooden log, thereby, he sustained injuries. P.W.1 and P.W.5 have taken the victim and admitted in the hospital. P.W.3 lodged a complaint against the Accused 1 and 2 and the victim has given a statement. After investigation, the respondent police registered a case against the petitioner and another accused for offence under Sections 341 and 325 IPC. Before the trial Court, in order to prove the case of the prosecution, the respondent police has examined as many as 9 witnesses viz., P.W.1 to P.W.9 and marked as many as 7 documents viz., Ex.P.1 to Ex.P.7 and one material object was produced. Both the Courts have found that the prosecution has proved its case beyond all reasonable doubts. The learned Magistrate has found the accused 1 and 2 guilty for the offences under Section 341 and 325 IPC. But the Appellate Court has found that there is no incriminating evidence against the first accused. Therefore, the learned Appellate Court, acquitted the first accused for the offence under Section 341 IPC and confirmed the judgment of the trial Court against the petitioner/A2.

8. On a perusal of the records, it is seen that the first accused is the wife of P.W.3/Victim; the second accused is the son of P.W.3. Due to family dispute, the first accused caught hold her husband and the petitioner/A2 attacked the P.W.3 with wooden log and thereby, he sustained injuries. P.W.5 is the eyewitness. He took the victim to Kallavi Police Station and lodged a complaint against the accused 1 and 2 and thereafter, he has taken the victim to Uthangarai Government Hospital for treatment. P.W.6, the Doctor, who treated the victim, has clearly stated that P.W.3 had fracture in his right leg and opined the same to be a grievous injury and the other injury as simple injury. P.W.9, who had taken X-Ray, has deposed that P.W.3 had fracture in his leg. Though the trial Court has

convicted both the accused, but in the complaint of the victim, he impleaded the first accused, whereas no incriminating materials are found against the first accused. Therefore, the appellate Court acquitted her. But P.W.3, the injured witness, has stated that the second accused attacked him with wooden stick on his knee and thereby, he sustained injuries. P.W.5 had admitted the victim in the hospital.

9. From the documentary evidence of A.R.Copy, wound certificate and the Doctors' evidence, it could be seen that the victim had fracture in his leg and sustained injury caused by the second accused. The other witnesses have turned hostile and have not supported the case of the prosecution. On reading of the evidence of P.W.3, injured witness and also medical records and doctors' evidence, it is clear that the injury sustained by the victim is griveous in nature. Therefore, the Appellate Court has also rightly appreciated the evidence and acquitted the first accused, since there is no records against her and confirmed the judgment of the learned District Munsif cum Judicial Magistrate against the petitioner/A2.

10. It is well settled proposition of law that the scope of revision is very limited and while exercising the revisional jurisdiction, this Court has to only see as to whether there is any perversity found in the Judgment passed by both the Courts below. This Court cannot exercise the power of an appellate Court and re-appreciate the evidence and substitute its own view.

11. Considering the facts and circumstances of the case, this Court does not find any perversity in appreciation of the evidence and there is no valid reason to interfere with the judgments of the Courts below and there is no merit in the revision.

12. In the result, the revision is dismissed. The trial Court is directed to secure the custody of the revision petitioner/A2 to undergo remaining period of sentence, if any.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

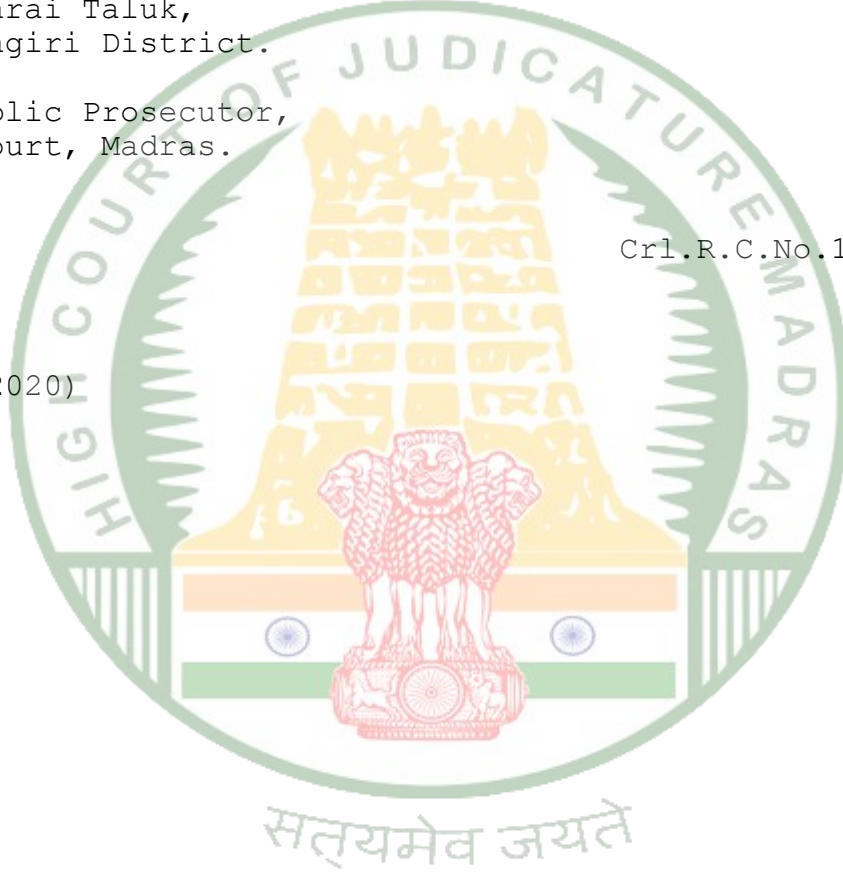
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To

1. The Additional Sessions Judge, Krishnagiri.
2. The District Munsif cum Judicial Magistrate,
Uthangarai.
3. Do Thro The Chief Judicial Magistrate, Krishnagiri
4. The Inspector of Police,
Kallavi Police Station,
Uthangarai Taluk,
Krishnagiri District.
5. The Public Prosecutor,
High Court, Madras.

Crl.R.C.No.1329 of 2012

EV(CO)
SP(06/02/2020)



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