

BAIL SLIP

The Appellant/Petitioner /Accused namely Devendran S/o.Mani was directed to be released on bail as per the order of this court dated 06/12/2012 in MP.No.1/2012 in CrI.RC.No.1419/12 on the file of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN
CrI.R.C.No.1419 of 2012

Devendran

...Petitioner/Appellant/
Accused

Vs.

State represented by
The Sub-Inspector of Police,
Velankanni Police Station,
Nagapattinam District
(Cr.No.473 of 2007)

...Respondent/Respondent/
Complainant

The Criminal Revisions is filed under Sections 397 and 401 of Code of Criminal Procedure to set aside the judgment of the learned District and Sessions Judge, Nagapattinam, made in C.A.No.74 of 2010, dated 23.04.2012, confirming the order of the learned Judicial Magistrate No.I, Nagapattinam, made in C.C.No.20 of 2008 dated 15.06.2010.

For Petitioner : Mr.K.M.Subramaniam

For Respondent : Mr.T.Shanmugarajeswaran
Government Advocate (CrI.Side)

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ORDER

This criminal revision case has been filed against the concurrent judgment of conviction made by both the Courts below.

2 The respondent police registered a case against the petitioner and yet another accused for the offence punishable under Sections 324 and 506(2) of IPC against this petitioner and 342 of IPC against the other accused, stating that the petitioner along with another, due to previous enmity, on 04.11.2007 at about 05.45 p.m. had stabbed P.W.1 and threatened with dire consequences. After completing investigation, the respondent police laid a charge sheet before the learned Judicial Magistrate No.I, Nagapattinam, which was taken on file in C.C.No.20 of 2008. The learned Judicial Magistrate, after completing trial, by judgment dated 15.06.2010, acquitted the other accused and convicted this petitioner and sentenced him to undergo simple imprisonment for a period of six months and to pay a fine of Rs.1000/-, in default, to undergo simple imprisonment for a further period of three months for the offence under Section 324 of IPC and acquitted the petitioner for the offence under Section 506 (2) of IPC. Aggrieved against the judgment of conviction, the petitioner has preferred an appeal in CrI.A.No.74 of 2010 and the learned District and Sessions Judge, Nagapattinam, after hearing both the counsel, by judgment dated 23.04.2012, dismissed the appeal and confirmed the judgment of the trial Court. Challenging the concurrent judgment of conviction, the petitioner is before this court with the present criminal revision case.

3 According to learned counsel appearing for the petitioner the trial Court has failed to consider the injuries sustained by the petitioner and the investigation also does not disclose the above fact and the lower appellate Court also without appreciating the evidence properly, mechanically has confirmed the judgment of the trial Court. The counter complaint filed by the petitioner, which was registered in Crime No.473/2007, was not brought before the trial Court and the case was not tried as case in counter. The trial Court failed to consider the vital contradictions in the FIR as well as the evidence given by the witnesses before the Court. Further there are material contradictions between the prosecution witnesses and prosecution has failed to prove the guilty of the petitioner for the offence under Section 324 of IPC. P.Ws.1 & 2 have not spoken about the place of occurrence. The trial Court has extended benefits of doubt towards A2 and also even though,

charges were framed against the petitioner for the offence under Section 324 and 506(2) of IPC, trial Court has acquitted the petitioner for the offence under section 506(2), but erroneously convicted for the offence under Section 324 of IPC. The lower appellate Court has also without appreciating the materials on record, confirmed the judgment of conviction, which warrants interference of this Court.

4 The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the case in counter filed by the petitioner is nothing to do with the present occurrence and even the petitioner has not proceeded to pursue his remedy by filing protest petition or private complaint, which itself shows that the case filed by the petitioner is false. There is no record to show that the petitioner also sustained injuries. The trial Court has rightly appreciated the evidence of prosecution witnesses and convicted the petitioner and the lower appellate Court has also confirmed the judgment of the trial Court. There is no reason to interfere with the judgment of conviction made by the trial Court and confirmed by the lower appellate Court.

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

6 It is seen that P.W.1 has deposed that A2 caught hold him and A1 stabbed in right upper left hand and he was admitted in the Hospital. After receiving information from the Hospital, police officials went and recorded statement, but, there is no corroboration that A2 caught hold of P.W.1 and therefore trial Court acquitted him, whereas, there is evidence to show that the petitioner has stabbed P.W.1. It is seen from the AR copy that P.W.1, while admitting in the Hospital, has stated that known person stabbed. P.W.7, the Doctor, who treated the injured witnesses had also made entry in the AR and noted the following injuries:

1. An incised wound 2 x 0.5 x 0.5 C.M. On the right arm.
2. An incised wound 1 x 0.5 x 0.5 C.M. Above right elbow.
3. An incised wound 2 x 1 x ½ C.M. On the left lateral abdomen.
4. An incised wound 1 x 0.5 x 0.5 C.M. On the left shoulder.

P.W.2 was also admitted in the Hospital and AR copy for the same was also marked as Ex.P4 and found one injury. Prosecution has proved its case against the petitioner for the offence under Section 324 of IPC through the evidence of P.Ws.1 & 2. Even

though, the injuries sustained by the witnesses are simple in nature and trial Court acquitted the petitioner for the offence under Section 506 (2) of IPC, on reading of the evidence of P.Ws.1, 2 and 7 coupled with medical evidence, this Court does not find any perversity in the conviction recorded by the trial Court.

7 The trial Court has rightly appreciated the evidence of prosecution witnesses and recorded conviction and the lower appellate Court, being a final Court of fact finding, after re-appreciating the entire evidence, has confirmed the conviction recorded by the trial Court. This Court, while exercising revisional jurisdiction, cannot re-visit the entire evidence and substitute its own views on the finding of the lower appellate Court, unless there exists perversity. This Court does not find any perversity in the judgment of both the Courts below.

8 In the result, the criminal revision case stands dismissed. Trial Court is directed to secure the petitioner/accused to serve remaining period of imprisonment, if any.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Judicial Magistrate No.I, Nagapattinam.
- 2.The Chief Judicial Magistrate, Nagapattinam
- 3.The District and Sessions Judge, Nagapattinam.
- 4.The Sub-Inspector of Police,
Velankanni Police Station,
Nagapattinam District
- 5.The Public Prosecutor, High Court of Madras.

copy to

The Section Officer
Criminal Section
High Court Madras

+1 cc to Mr.K.M.Subramaniam Advocate sr64762

Cr1.R.C.No.1419 of 2012

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aa03/12/2019