

Bail Slip

The Appellant/Accused viz P.Karuppaiyan S/o.Mayandi, was directed to be released on bail as per order date 27/04/12 in MP.1/2012 in CrI.R.C.No.480/2012 on the file of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.04.2019

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Criminal Revision Case No.480 of 2012

P.Karuppaiyan .. Petitioner/Appellant/A1

/versus/

State rep.by the
Sub-Inspector of Police,
Nagapattinam Town Police Station,
Nagapattinam District.
(Crime No.396 of 2005)

.. Respondent/Respondent/Complainant

Criminal Revision Case filed under Section 397 r/w 401 of the Criminal Procedure Code praying to set aside the conviction and sentence made in Criminal Appeal No.61 of 2009, dated 22.11.2011 on the file of the District & Sessions Judge, Nagapattinam in confirming the judgment made in C.C.No.111 of 2006, dated 25.09.2009 on the file of the Judicial Magistrate I, Nagapattinam and thus, allow the criminal revision.

For Petitioner :Mr.D.Padmanabhan for
Ms.S.Jayanthi

For Respondent :Mr.T.Shunmuga Rajeswaran
G.A.(crl.side)

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ORDER

This revision petition has been filed against the concurrent finding of the Courts below holding the accused guilty for the offence under Sections 323 and 354 of IPC.

2. The case of the prosecution is that the defacto complainant PW-1 [Girija] objected the accused person, who tried to encroach upon the vacant site behind her house. Aggrieved by that, A1 [Karuppaiyan], who is the revision petitioner herein, along with his relatives, who were arrayed as A2 to A4 started abusing her using filthy language and pulled her Saree and also outraged her modesty. When her daughter came to rescue of her mother, she was also abused. The trial Court, after examining 12 witnesses and considering five exhibits, held that A1 [Karuppaiyan] had committed offence under Sections 323 and 354 of IPC. To arrive at the said conclusion, the trial Court has relied upon the evidence of the injured witness PW-1, the other eye-witnesses and the wound certificate [Ex.P3] issued by PW-9 [Dr.Senthil Kumar].

3. The version of PW-1 that on 29.04.2005 at about 04.30 p.m., near her house, the accused persons gathered and tried to occupy the unfinished house and when the complainant prevented, she was brutally attacked by hands and legs. PW-7[Janani] daughter of PW-1 has corroborated the incident. The injury sustained by PW-1 is spoken by PW-9[Dr.Senthil Kumar].

4. Aggrieved by the judgment of the trial Court, the present revision petitioner has preferred appeal before the District and Sessions Court, Nagapattinam. After re-appreciation of the evidence, the lower appellate Court has dismissed the criminal appeal upholding the conviction and sentence imposed by the trial Court. Aggrieved by the judgment of the lower appellate Court, the present revision is filed.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(crl.side) appearing for the State.

6. The revision petitioner, in the grounds of the revision petition has stated that the judgment of the Courts below is against law, weight of evidence and probabilities of the case. The Courts below ought to have acquitted him from the offence under Sections 323 and 354 of IPC since the prosecution has failed to prove the case beyond reasonable doubt. The inordinate delay in sending the First Information Report to the Judicial Magistrate is not properly explained by the prosecution and therefore, the prosecution has failed to prove the case beyond reasonable doubt.

7. On perusal of the records and judgment of the Courts below as pointed out earlier, the conviction of the revision petitioner is based on the evidence of the injured witness [PW-1], which has been corroborated by the evidence of PW-7 and PW-

4, who is the witness to the occurrence as well as the observation mahazar. The injury sustained by the defacto complainant has been corroborated by the medical evidence.

8. In such circumstances, the contention of the learned counsel appearing for the revision petitioner that the judgment of the Courts below is against law and weight of evidence is unsustainable. It is submitted that there is a delay in forwarding the First Information Report to the Magistrate Court. The incident has occurred on 29.04.2004 at about 16.30 hours. On the same day at 18.15 hours, the complaint has been registered. Arrest card of the revision petitioner Karuppaiyan and Harikaran indicates that they were arrested on 20.05.2005 and remanded. It appears that the respondent police has forwarded the First Information Report and other related documents to the Magistrate and the Magistrate has received it and made his initial with date as 10.05.2005.

9. The delay in forwarding the First Information Report and other material papers to the Magistrate should have caused some prejudice to the accused or else, even if the delay is not explained, that may not go against the case of the prosecution. When the victim PW-1 has gone to the police immediately after the occurrence and she had taken treatment for the injury, she sustained, which are reflected in the contemporaneous documents such as complaint, First Information Report and wound certificate, the lapse on the part of the police to forward the same to the concerned Magistrate will not stand on the way of proper appreciation of the evidence. Therefore, this Court finds no merits in this revision petition. Hence, the Criminal Revision Case is liable to be dismissed.

10. Accordingly, this Criminal Revision Case is dismissed. The conviction and sentence passed by the District and Sessions Judge, Nagapattinam in C.A.No.61 of 2009, dated 22.11.2011 are confirmed. The imprisonment already undergone by the accused shall be set off as per Section 428 of Cr.P.C. Bail bond, if any executed by the accused shall stand cancelled. The respondent police is directed to secure the accused and commit him into prison through Court to undergo the remaining period of sentence.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

1.The District & Sessions Judge, Nagapattinam.

2.Judicial Magistrate No.1, Nagapattinam.

3.Do Thro The Chief Judicial Magistrate,
Nagapattinam.

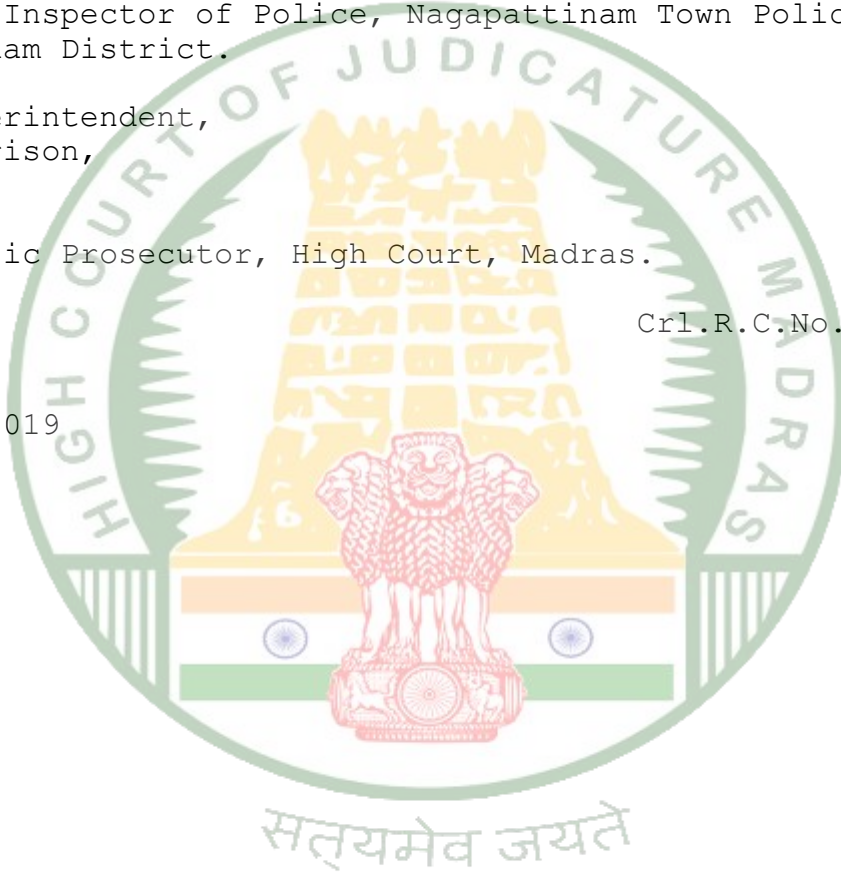
4.The Sub-Inspector of Police, Nagapattinam Town Police Station,
Nagapattinam District.

5.The Superintendent,
Central Prison,
Cuddalore.

6.The Public Prosecutor, High Court, Madras.

Cr1.R.C.No.480 of 2012

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nr 03/06/2019



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