

Bail Slip.

That the Accused namely Mrs.S.Chennammal, W/o. Mr. Sankar was released on bail in Crl.M.P. 1/2012 in Crl.R.C. 549/2012 dated 06.06.2012 against Judgment and decree of the District and Sessions Judge, Krishnagiri in Crl.A. No. 26/2009 dated 21.04.2011.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.04.2019

Coram::

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Criminal Revision Case No.549 of 2012

Mrs.S.Chennammal ... Petitioner/Accused No.1

/versus/

The State represented by:
The Sub Inspector of Police,
Uthangarai Police Station,
Krishnagiri District.
(Crime No.960 of 2005)
Respondent/Complainant

Prayer:- This Criminal Appeal is filed under Section 397 & 401 of Cr.P.C, praying against to set aside the judgment of conviction and sentence passed on 21.04.2011 by the Hon'ble Principal District & Sessions Judge, Krishnagiri in C.A.No.26 of 2009 confirming the conviction and sentence passed on 20.07.2009 by the Judicial Magistrate, Uthangarai on the file of C.C.No.35 of 2006 convicting the revision petitioner/accused No.1 for the charges under Section 324 of I.P.C.

For Petitioner : Mr.S.Nambi Arooran

For Respondent : Mr.T.Shanmuga Rajeswaran
Government Advocate

O R D E R

Heard the Learned Counsel for the revision petitioner and the Government Advocate for the respondent/state.

2. The case of the prosecution is that the father has given the complaint against his daughter and son-in-law, for causing

injury with Koduval. Both the Courts have considered the evidence let in by the prosecution and held them guilty for the offence under Section 324 of I.P.C against A1/Chennammal and for the offence under Section 323 of I.P.C against A2/Sankar.

3. Aggrieved by that, the present revision petition is filed.

4. The Learned counsel appearing for the revision petitioner would submit that except PW.1, no other witness has supported the case of the prosecution. The evidence of PW.1 Krishna Chetty is self-contradictory. The F.I.R given by PW.1 and the testimony of PW.1 before the Court is contradictory to each other therefore, the unreliable testimony of PW.1 ought to have been considered by the Courts below to acquit him. Contrarily, the Courts below would clearly rely upon on moral ground, carried away the contention of PW.1 that they had been subjected to physical assault by his own daughter and son-in-law had convicted the revision petitioners on moral ground.

5. Since, the learned counsel had specifically mentioned that there was no other evidence, except the ocular evidence of PW.1 and there was some erroneous and improper appreciation of evidence, this Court gone to the deposition of the witnesses and the Exhibits relied by the prosecution.

6. It is the case of PW.1 Krishna Chetty, the defacto complainant that he and the accused were in the same house. According to his complaint, when he asked for food, his daughter refused to give food and also abused him. When he was sitting near the Vinayagar Koil, along with others, she came with Koduval attacked him, causing injury in his right palm. As advised by the elders of the village, along with the weapon, he went to the police station but due to sudden brake down of his health, he went to Uthangarai hospital and in the hospital, the police received the inforamtion, recorded the statement and registered the complaint. Whereas, in his testimony, PW.1 has stated that on the date of occurrence, when he was sitting in the Vinayagar Koil, along with five others, A1 came with "Koduval". The persons present there prevented her and took her to Mariamman Koil but A1 did not go back to home but pretended, as if, she is going back to home. After others left the place, she came and attacked him on the neck. PW.1 tried to defend himself, his left hand palm got injured. A2 caught hold of his hair and pushed him down and beat him over the back. Thereafter, he went to Uthankirigi hospital, in the hospital, the police came and recorded the statement. He has identified the Koduval marked as M.O.1. In the cross examination, he has stated that at the time of occurrence, the police he has not mentioned about it. He admits that injury was not on his left palm. Nearly 20 to 25 villagers were present at the time of

occurrence. He handed over the M.O.1 to the police, at police station, at about 8.30 a.m.

7. Pointing out these contradictions, the learned counsel would submit that the evidence of PW.1 is wholly unreliable. However, as pointed by the learned Government Advocate for the respondent/state the necessity for giving a complaint against his own daughter and son-in-law cannot be taken as a sheer motivated complaint without any reason. The injury found on PW.1 is reflected in the accident register, which is marked as Ex.P.5. The injured person has wrongly said in his deposition that the injury was on his left palm. The injured witness said that the injury was on right hand, during the chief examination. But however in the cross examination, he has said that it was on the left hand, between his index finger and thumb. The Court cannot lose the sight of fact that the injured witness was around 60 years old at that time, he was a coolie and asked to depose about his own daughter and son-in-law. Some minor variations in his statement and the deposition which was recorded after one year five months of the cross examination cannot be taken advantage by the accused persons. Since the evidence of the injured person and the medical record corroborates each other, the hostility of the other witnesses is immaterial. Therefore, the Courts below has rightly found the revision petitioners guilty and imposed appropriate punishment for their act of crime.

8. Considering the gender of A1, the period of imprisonment is modified from 6 months R.I to one month (30 days) S.I. The fine amount stand confirmed. Accordingly, the Criminal Revision Petition is dismissed. Bail Band stands cancelled. The trial Court shall secure the accused and commit him to prison to undergo the remaining period of sentence. The period of imprisonment already undergone shall be set off under Section 428 of Cr.P.C.

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

bsm

To

1.The Principal District & Sessions Judge, Krishnagiri.

2.The Judicial Magistrate, Uthangarai. Krishnagiri District.

3.The Chief Judicial Magistrate, Krishnagiri

4.The Sub Inspector of Police, Uthangarai Police Station,
Krishnagiri.

5.The Public Prosecutor, High Court, Madras

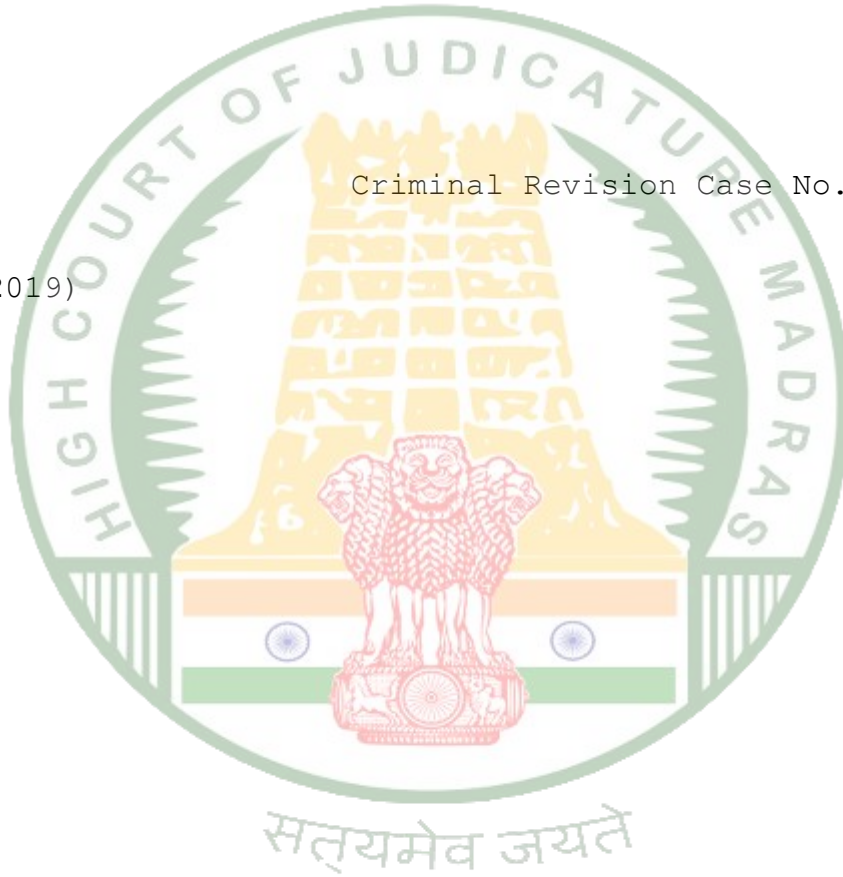
Copy to

The Section Officer, Criminal Section,
High Court, Madras.

+1 CC to Mr.S.Nambi Arooran, Advocate sr 32323.

Criminal Revision Case No.549 of 2012

RK(CO)
SP(06/06/2019)



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