



Bail Slip

The Petitioner/Accused namely Chinna Beeman, S/o. Perumal was directed to be released on bail dated 21.08.2012 made in Crl.M.P.Nos.1/2012 in Crl.R.C.No.974 of 2012 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.974 of 2012
and Crl.M.P.Nos.1 & 2 of 2012

Chinna Beeman

...Petitioner/Accused

-Vs-

State by
The Sub-Inspector of Police,
Bargur Police Station,
Krishnagiri District.
(Crime No.395 of 2008)

...Respondent/Complainant

Criminal Revision Case filed under Section 397 read with Section 401 of Cr.P.C. against the judgment in C.A.No.35 of 2012 on the file of the learned Principal Sessions Judge, Krishnagiri dated 02.07.2012, by modifying the judgment passed in C.C.No.460 of 2008 dated 07.05.2010, on the file of the learned Judicial Magistrate No.I, Krishnagiri.

For Petitioner : Mr.K.Thiruvengadam
For Respondent : Mr.T.Shanmuga Rajeswaran
Govt. Advocate (Crl. side)

O R D E R

Challenging the judgment in C.A.No.35 of 2010, on the file of the learned Principal Sessions Judge, Krishnagiri, the present revision has been filed. The Principal Sessions Judge, while partly allowing the judgment of the learned Judicial Magistrate No.I, Krishnagiri in C.C.No.460 of 2008, confirmed the conviction and sentence imposed on the petitioner under Section 326 IPC and acquitted him of offences under Sections 341 and 294(b) IPC.

2. The case of the prosecution is that there was a previous enmity between P.W.1 and the petitioner herein with regard to a common pathway. There was a civil suit pending between them. While so on 09.07.2008, at about 5.00 p.m., when the P.W.1 was



walking along with the common pathway, he saw the accused putting thorns on the pathway. When P.W.1 questioned the petitioner about the same, the petitioner abused P.W.1 using filthy language and attacked him with an wooden log. Because of the attack, P.W.1 lost two of his tooth and he sustained injuries on his mouth, right shoulder and left hand wrist and attacked other parts of the body. Based n the complaint lodged by P.W.1, the respondent police registered a case and conducted investigation and laid charge sheet before the learned Judicial Magistrate-I, Krishnagiri.

3 In order to prove the case, the prosecution has examined eight witnesses and produced six exihibits besides marking the wooden log as M.O.1. No witness was examined on the side of the defence. The trial Judge, after careful consideration of the case, found the accused guilty for the offence under Section 341,294(b) and 326 of IPC and convicted him and sentenced to undergo one year RI and to pay a fine of Rs.1,000/- in default, to undergo three months SI for the offence under Section 326 IPC; sentenced him to pay a fine of Rs.500/- in default, to undergo two weeks simple imprisonment for the offence under Section 294(b) IPC; and sentenced him to pay a fine of Rs.500/- in default, to undergo one week simple imprisonment for the offence under Section 341 IPC.

4. Challenging the said judgment of conviction and sentence in C.C.No.460 of 2008, dated 07.05.2010, the convict had filed an appeal before the learned Principal District and Sessions Judge, Krishnagiri in C.A.No.35 of 2010. The learned Principal Sessions Judge, Krishnagiri, on appreciation of the materials placed before him, found the petitioner not guilty for the offence under Section 341 and 294(b) IPC and acquitted him on the above said offences. However, the learned Principal Sessions Judge, found the accused guilty for the offence under Section 326 IPC and confirmed the conviction and sentence imposed by the learned Judicial Magistrate. Challenging the judgment, the present revision has been filed.

4. The learned counsel for the petitioner would submit that there are many contradictions in the evidence of P.W.1 and P.W.2. Likewise, P.W.1 in his chief examination has stated that the occurrence has taken place at 5.00 A.M, whereas the prosecution case is that, the occurrence took place at 5.00 P.M. There is also a difference in the weapons used for attacking P.W.1. P.W.1 has only mentioned in his evidence that he was attacked with a small stick, whereas the material object produced by the prosecution is casuarina stick. Moreover the petitioner and P.W.1 are hailing from the same village and if the petitioner is convicted, it will only aggravate the situation in the village.



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5. The learned Government Advocate (Crl. side) would submit that the prosecution has clearly proved the guilt of the petitioner and therefore, no interference is called for in the well considered judgment of the Court below.

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

7. Admittedly, P.W.1 and the petitioner are living in the same village and there was a civil suit pending between them with regard to the pathway. The Civil Court has decreed the suit in favour of the petitioner. However, there was no finding with regard to the pathway in the judgment of the civil Court. While that being so, on 09.07.2008, at about 5.00 P.M. when P.W.1 was walking along with common pathway, he found the petitioner putting thorns in the said pathway. P.W.1 questioned the same, infuriated at this, the petitioner abused P.W.1 using filthy language. The petitioner picked the wooden log and attacked the petitioner on his mouth. P.W.1 lost his two tooth and sustained injuries on his mouth, right shoulder and left hand wrist and attacked other parts of the body. On hearing the cries of P.W.1, his wife P.W.2, rushed to the scene of occurrence and took him to the hospital. Later the complaint was lodged with the respondent police. The Police after investigation, laid charge sheet against the petitioner for the offence under Section 341, 294(b) and 326 of IPC.

8. The trial Court convicted the petitioner for all the above mentioned offences. On appeal, the Appellate Court, while sustaining the conviction and sentence imposed for the offence under Section 326 IPC, acquitted the petitioner of offence punishable under Section 341 and 294(b) IPC.

9. On a perusal of the records, this Court is in agreement with the findings of the Appellate Court with regard to the offence under Section 341 and 294(b) IPC. As against them no appeal was filed either by State or the defacto complainant. The learned counsel for the petitioner argued that there is a contradiction with regard to the time of occurrence. P.W.1 has clearly mentioned in the complaint that the occurrence has taken place at 5.00 P.M. It is true that in his chief examination, he has deposed that the occurrence took place at 5.00 A.M. However there are other materials and evidence of P.W.2, which clearly shows that the occurrence had taken place at 5.00 P.M. The evidence of P.W.1 with regard to time is only minor contradiction and negligible.

10. The learned counsel vehemently argued that the weapons used for attack is mentioned as deadly. In his evidence P.W.1



has stated that he was attacked with a small stick. However, the prosecution has marked causarina stick as material object. The occurrence had taken place at 5.00 P.M. The sunset would not have started and there would have been very dim light at that time. Moreover, P.W.1 was brutally attacked on his face, right shoulder and left hand wrist and he lost his two tooth. When he was under such attack, it would not be possible for the victim to recollect the weapon used for attacking him. However, the fact remains that P.W.1 lost two tooth and sustained injuries on his back right shoulder and left hand wrist. P.W.6 Doctor, who treated P.W.1 has given wound certificate to the said effect. The wound certificate speaks the truth. Therefore, the kind of stick used for attacking P.W.1 is immaterial. The severity of attack certainly attracts, the ingredients of Section 326 IPC. Therefore, this Court has no hesitation to hold that the petitioner is guilty for the offence under Section 326 IPC. This Court while exercising the revisional jurisdiction does not find any perversity in appreciation of evidence by the appellant Court. There is no merit in the revision case.

11. In the result, the judgment of the Appellate Court in C.A.No.35 of 2010 is confirmed. This Criminal Revision is dismissed. The trial Court is directed to secure the custody of the accused and make him to undergo remaining part of sentence, if any.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

To

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

+1 CC to Mr.K.Thiruvengadam, Advocate sr 65650.

CrI.R.C.No.974 of 2012

SR(CO)
SP(29/01/2020)