

Bail Slip

The Petitioners herein/Accused,namely 1. Selladurai, S/o.Kasinathan 2. Karunanidhi, S/o. Seenivasan 3.Karunanidhi, S/o. Rasu in Spl S.C.NO.22/13 dated 04.02.2014 on the file of the Principal District and Sessions Judge, Ariyalur District were directed to be released on bail by order of this Court dated 28.02.2014 made in CMP.NO.1/14 IN CRL A.NO.93/2014.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Judgment 31.08.2018	Date of pronouncing Judgment 15.10.2019
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CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.A.No.93 of 2014

1. Selladurai, S/o. Kasinathan
2. Karunanidhi, S/o. Seenivasan
3. Karunanidhi, S/o. Rasu

.. Appellants/Accused
Versus

State represented by
The Deputy Superintendent of Police
Jayamkondam Police Station
Ariyalur District.
(Crime No.484 of 2012)

.. Respondent/Complainant

Appeal filed under Section 374 of Cr.P.C. against the Judgment of conviction and sentence passed by the learned Principal District and Sessions Judge, Ariyalur, in Special Sessions Case No.22 of 2013 dated 04.02.2014.

For Appellants : Mr.K.Gandhi Kumar

For Respondent : Mr.R.Ravichandran
Government Pleader (Crl. Side)

Judgment

The respondent police registered a case against the appellants and one another accused in the split-up case in S.C.No.25 of 2013 in Crime No.484 of 2012 for the offence under Sections 294(b) and 506(i) IPC and also under Section 3(1)(x) of SC/ST Act. After investigation, the respondent police laid a charge sheet before the learned Judicial Magistrate, Jayamkondam. The learned Magistrate taken the charge sheet on

file in PRC No.24 of 2013 and after completing all the formalities, since the case is triable by the designated Court, he committed the case to the learned Principal Sessions Judge, Ariyalur. The learned Principal Sessions Judge, after completing the formalities, taken the case on file in Spl.S.C.No.22 of 2013 and framed the charges against the appellants under Section 294(b) of IPC for using obscene language against the appellants 1 to 3 and another accused; under Section 3(1)(x) of SC/ST Act for insulting the person belonging to SC/ST; and under Section 506(i) of IPC for criminal intimidation.

2. After framing the charges and after completing the formalities, during trial, on the side of prosecution as many as 17 witnesses were examined and 7 documents were marked and no Material Objects were produced by the prosecution. After completing the prosecution witnesses, when incriminating circumstances culled out from the prosecution were put before the accused, they denied the same as false.

3. Since A4 was absconded during the pendency of trial and after trial, the case against A4 was split-up and numbered as Spl.S.C.No.25 of 2013 and after completing the trial and also after hearing the arguments and also considering the oral and documentary evidences, the designated Court convicted these appellants 1 to 3 for the offence charged against them and sentenced them to pay a fine of Rs.500/- each for the offence under Section 294(b) of IPC, in default to undergo one week Simple Imprisonment; to undergo one year Rigorous Imprisonment for the offence under Section 3(1)(x) of SC/ST Act; and to pay Rs.500/- each for the offence under Section 506(i) of IPC, in default to undergo one week Simple Imprisonment and also ordered that the period of sentence already undergone by the accused shall be set off from the period of sentence under Section 428 Cr.P.C. The split-up case as against the fourth accused was ordered to be separately proceeded once he was secured.

4. The learned counsel for the appellants would submit that the prosecution has failed to establish its case beyond reasonable doubt and further the trial Court failed to consider the fact that there are material contradictions between the prosecution witnesses and also the trial Court failed to appreciate that the independent witnesses PW.2 to PW.7 and also PW.12 were turned hostile and they did not support the case of the prosecution and also there are contradictions regarding filing the complaint and also the arrest of the appellants. The prosecution has failed to prove its case beyond reasonable doubt, the benefit of doubt should have been extended to the appellants and the learned Principal Sessions Judge, should have acquitted the appellants. Further P.Ws.8, 9, 11 and 15 are the

official witnesses and especially, police officials. Therefore, in order to escape from their responsibility, they foisted the false case against the appellants in order to satisfy their superior officials and also gain reputation of the Department. The learned trial Court failed to consider the matter and based on the ground of sympathy, convicted the accused, which warrants interference of this Court.

5. The learned counsel for the respondent/State would submit that PW.1, the victim belongs to Marginal Community and the appellants belong to Vanniar Community. There was a dispute pertaining to the damage of the Flux Board placed in for the celebration of 50th birthday of Thirumavalavan. In this connection, there was a police complaint and there was a peace talk held by the Revenue Divisional Officer, Udaiyarpalayam. During the peace talk, PW.1 was sitting in the chair in the public place, hence, the appellants with filthy language insulted PW.1's community. Apart from that, they also expressed criminal threats to the victim. All the appellants addressed the victim PW.1 in a derogatory and obscene language and thereby, insulting his community and they committed the offence and based on the complaint given by PW.1, the respondent police investigated the case and after thorough investigation, the respondent police laid the charge sheet. The prosecution also substantiated the case before the designated Court and the designated Court also appreciated the entire facts and convicted the appellants. Since one of the accused absconded during trial, the case was split-up against these appellants and the designated Court found these appellants guilty of the offence and convicted them as stated above. There is no reason to interfere with the judgment of the trial Court.

6. Heard both sides. Perused the records.

7. The case of the prosecution is that PW.1 in this case is a victim, who belongs to Scheduled Caste community. All the appellants belong to Vanniar Community. There was a dispute pertaining to the damaging of Flux Board placed in for the celebration of 50th birthday of Thirumavalavan, President of 'Viduthalai Chiruthaigal Katchi'. In this connection, there was a police complaint and there was also a peace talk held by the Revenue Divisional Officer, Udaiyarpalayam. Out of enmity, the appellants scolded the victim, since he was sitting in the public place, with filthy language and insulted their community. Apart from that, they also threatened PW.1 and also addressed him in derogatory and obscene language and therefore, PW.1 made a complaint before the respondent police. The police investigated the case and laid charge sheet.

8. In order to prove the prosecution, 17 witnesses were examined. Out of which, PW.1 is the victim, who is the defacto complainant in this case. He has deposed that he was working as Village Assistant in Elaiyur Village and he belongs to Scheduled Caste. On 23.08.2012 at 1.10 p.m, he went to Palanisami Hotel in his village for taking tea. When he had gone there, the police enquired him whether the Collector was visiting the said place or not. He took a chair therein and got seated in it and was conversing with the police. The appellants, who belong to Vanniar Community, came there and questioned him as to how he can sit in the chair and scolded him as 'son of the prostitute and Harijan fellow' and drove him out by attempting to attack. The police personnel therein tried to prevent the attack and the appellants also declared that they have the support of the masses and they have a force behind them. He escaped from them and preferred a complaint Ex.P1 before the respondent police, at about 2.30 p.m.

9. Though P.Ws.2, 3, 4, 5, 6 and 7 were present at that time and during the investigation, they have given the statement under Section 161 of Cr.P.C, subsequently, during the trial, they have turned hostile and have not supported the case of the prosecution. P.Ws.8, 9, 10 and 11 had corroborated the evidence of PW.1, the victim. Though the learned counsel for the appellants would submit that the evidence of the police officials cannot be considered, the case of the prosecution is that the police officials enquired the victim, at that time, the victim seated in the chair and made conversation with the officials. Since the appellants belong to Vanniar Community, they would thought that the victim, who belongs to Scheduled Caste should not have seated in the public place, as they have thought that Harijans should not sit in the public place, in the presence of appellants, who belong to Vanniar Community. Therefore, the occurrence has taken place in the presence of police officials during interrogation of some other matter and the appellants scolded the victim in filthy language and threatened him and also made attempt to attack him and therefore, P.Ws.8, 9, 10 and 11 have corroborated the same. Merely because they are police officials, it cannot be stated that their evidence cannot be believed. So PW.1, the victim has clearly submitted about the incidence.

10. Though other independent witnesses, due to fear or the reasons known to them, have not supported the case of the prosecution before the Court, but P.Ws.8, 9, 10 and 11, who were also present at the time of occurrence, have corroborated the evidence of PW.1. PW.8 also clearly stated that the appellants scolded PW.1 as "son of the prostitute and Harijan fellow and what business, he had got to sit, check out from that place,

else he would be cut into pieces" and they scolded the community of PW.1 and threatened him. PW.9 has also corroborated the evidence of PW.1 and he also deposed that the appellants scolded and shouted at the victim PW.1 by insulting his community. P.W.10 also in his evidence has stated that all the appellants were present and they also scolded the victim with filthy language. PW.11 stated that the appellants belong to Vanniar Community and came there and all the appellants scolded the victim and insulted his community. PW.1, the victim has clearly spoken about the occurrence and also about the complaint preferred by him before the respondent police and subsequently, he substantiated his complaint before the Court during the trial and P.Ws.8, 9, 10 and 11 also corroborated the evidence of prosecution. The trial Court has elaborately gone into the oral and documentary evidence and also the defence taken by the appellants and considered the fact and found that the prosecution has proved its case beyond reasonable doubt that the appellants have committed the offence under Sections 294(b) and 506(i) IPC and also under Section 3(1)(x) of SC/ST Act and found the appellants guilty of the offence and convicted as above.

11. This Court, as appellate Court, while re-appreciating the entire evidence, found that the appellants have committed the offence under Sections 294(b) and 506(i) IPC and also under Section 3(1)(x) of SC/ST Act. There is no perversity in appreciation of evidence by the trial Court and the judgment of the trial Court is well founded and there is no reason to interfere with the judgment of the trial Court and the prosecution has proved its case beyond reasonable doubt, with cogent reasons and this Court, cannot interfere with the judgment of the trial Court. There is no sound reason to interfere with the judgment of the trial Court. There is no merit in the appeal. The appeal is liable to be dismissed.

12. In the result, the Criminal Appeal stands dismissed and the conviction and sentence passed by the learned Principal Sessions Judge, Ariyalur, in Special Sessions Case No.22 of 2013 dated 04.02.2014 is hereby confirmed. The period of sentence already undergone, if any, by the appellants / A1 to A3 shall be set off under Section 428 Cr.P.C. The trial Court is directed to secure the appellants/A1 to A3 to undergo the remaining period of the sentence.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mra

To

1. The Principal and District Sessions Judge,
Ariyalur.
2. The Judicial Magistrate,
Jeyamkondam.
3. The Deputy Superintendent of Police
Jayamkondam Police Station
Ariyalur District.
(Crime No.484 of 2012).
- 4.The Judicial Magistrate,Ariyalur.
5. Do thro the Chief Judicial Magistrate,Perambalur.
- 6.The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.R.Jayaprathap , Advocate SR.No. 86789

Cr1.A.No.93 of 2014

rv (CO)
A.SK(27/11/2019)



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