

Bail Slip in Crl.RC.1058/17

The Petitioner/Accused Viz, Malarkodi W/o Gopi, was directed to be released on bail as per order of this Court dt.10/8/2017, in M.P.No.100096 of 2017 in Crl.R.C.1058 of 2017 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.Nos.1058 & 1576 of 2017

1. Malarkodi ...Petitioner in Crl.R.C.No. 1058 of 2017
2. Vignesh ...Petitioner in Crl.R.C.No. 1576 of 2017

-Vs-

State rep. by
The Sub Inspector of Police,
Jolarpet Police Station,
Vellore District.
(Crime No. 46/2011)

...Respondents in both RCs

PRAYER in both the RCs: Criminal Revision cases filed under Sections 397 read with Section 401 of Cr.P.C. to call for the entire records with related to the order passed in Criminal Appeal No. 30 of 2014 dated 10.07.2017 on the file of the learned III Additional Sessions Judge, Vellore @ Tirupathur which confirmed order dated 28.05.2014, passed in C.C.No. 47 of 2011 by the learned Judicial Magistrate No. I, Thirupathur, and set aside the same.

For Petitioners: Mr.V.R.Appaswamee
(in both the Rcs)

For Respondent : Mr.R.Ravichandran
Government Advocate (Crl.Side)
(in both the Rcs)

C O M M O N O R D E R

The respondent police registered a case against the revision petitioners and one another and after investigation laid a charge sheet, and the same was taken on file by the Judicial Magistrate No.1, Thirupathur in C.C.No.47 of 2011 and after full fledged trial, the learned Judicial Magistrate No.1, Tirupathur passed a Judgment dated 28.05.2014 convicting the petitioner in Crl.R.C.No.1058/17 for the offence punishable under Sections 294(b), 325 of IPC and sentenced her to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for a period of one week for the offence under Section 294(b) and sentenced her to undergo simple imprisonment for 6 months with fine of Rs.3000/-, in default, to undergo simple imprisonment for a further period of three months for the offence under Section 325 of IPC. The petitioner in Crl.R.C.No.1576/17 was convicted under Section 509 of IPC and sentenced him to undergo imprisonment till rising of Court and imposed fine of Rs.1,000/- in default, to undergo simple imprisonment of one month. The co-accused person A3 was also convicted along with the present petitioners by the trial Court. All the accused persons preferred a Criminal Appeal in C.A.No. 30 of 2017 before the learned Principal District and Sessions Judge, Vellore and the same was made over to the learned III Additional Sessions Judge, Vellore @ Thirupathur, however, after hearing the arguments the learned Judge dismissed the appeal and confirmed the Judgment of the learned Judicial Magistrate No.1, Tirupathur, against which A1 and A2 have filed the revision petitions Crl.R.C.No. 1058 and 1576 of 2017 respectively.

2. The Case of the prosecution is that on 26.01.2011, at 17.30 hours Solaiyur Village, in front of Barath Ratna Provision Stores, the first petitioner/first accused scolded the defacto complainant in filthy language and also caused grievous hurt on the upper jaw and broke the two teeth of the witness Vanaja, the 2nd accused removed his inner wear in front the witness kanimozhi and threatened the defacto complainant by showing iron rod and 3rd accused caused hurt by using stick on the head of the defacto complainant. Thereby the accused 1 to 3 have committed the offence punishable under Sections 294(b), 324, 325, 509 and 506 (ii) of IPC.

3. On completion of prosecution witnesses, the accused 1 to 3 were questioned under Section 313 of Cr.P.C for the incriminating materials appeared against them. The accused 1 to 3 totally denied the case of prosecution and on the side of the accused 1 to 3, no witnesses were examined but exhibits D1 and D2 were marked.

4. The trial Court after considering the evidence on record and the arguments of the counsels on either side, convicted the 1st accused for the offence under Sections 294(b) & 325 IPC, 2nd accused for the offence under Section 509 of IPC, 3rd accused for the offence under Section 324 IPC and sentenced them as stated above. Aggrieved against the same, all the accused have preferred an appeal, which was also dismissed confirming the judgment of the trial Court, against which present revisions have been filed.

5. According to learned counsel appearing for the petitioners in both the revisions, the trial Court has erred in not considering the fact that the prosecution has miserably failed to prove the case beyond reasonable doubt as against these petitioners and as such the trial Court ought to have acquitted the petitioners. The learned counsel appearing on behalf of the petitioners would further submit that parties are relatives and also subsequently, they have compromised the matter with the defacto complainant amicably and now are living peacefully.

6. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that prosecution witnesses have clearly deposed the offence committed by the accused persons. The trial Court has rightly appreciated the evidence of prosecution and convicted the accused and the lower appellate Court has also after re-appreciating the entire evidence has confirmed the conviction and sentence recorded by the trial Court, which does not call for any interference.

7. On reading of the entire materials on record and considering the nature of offence committed by the accused and also the relationship between the parties, this Court does not find any infirmity in the judgment of conviction made by the trial Court. The lower appellate Court, being a final Court of fact finding, had re-appreciating entire evidence independently and confirmed the judgment of conviction made 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. On reading of the judgments of both the Courts below, this Court does not find any perversity and there is no merit in the revision.

8. In the result, both the criminal revision cases are dismissed. However, in order to meet ends of justice, the period of sentence imposed on the petitioners alone is modified and the

period of imprisonment which, they have already undergone shall be treated as punishment for the offences charged against the petitioners.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmm

To

- 1.The Judicial Magistrate No. I,
Thirupathur,1.
- 2.The III Additional Sessions Judge,
Vellore @ Tirupathur.
- 3.The Chief Judicial Magistrate,
Vellore.
- 4.The Sub Inspector of Police,
Jolarpet Police Station,
Vellore District.
- 5.The Addl Public Prosecutor,
High Court of Madras.

+2cc to Mr.V.R.Appaswamee, Advocate SR.35212,35213

Cr1.R.C.Nos.1058 & 1576 of 2017

RR(CO)
CB(20/01/2020)

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