



BAIL SLIP

sudhakar, S/o Anbalagan, Male Veeraiyan, S/o Thayumanavan, Male appellants/Accused 1 and 2 were released on Bail, Vide court order dated 13.10.2009, made in MP(MD)No.1 of 2009 in Cr1 A(MD)No.314 of 2009.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 25.09.2019

PRONOUNCED ON : 20.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Cr1.A(MD)No.314 of 2009

1.Sudhakar
2.Veeraiyan

... Appellants /
Accused 1 and 2

Vs.

The State represented by
The Deputy Superintendant of Police,
Voimedu Police Station,
Vedaraniyam,
Nagapattinam District.
[Crime No.314 of 2009]

... Respondent/
Complainant

PRAYER: Appeal filed under Section 374(2) of the Code of Criminal Procedure, to set aside the conviction and sentence imposed on the appellant by the I Additional Sessions Judge, (Protection of Civil Rights), Thanjavur in S.S.C.No.78 of 2008 by judgment dated 30.09.2009, acquit the appellants.

For Appellant : Mr.A.Arun Prasad

For Respondent : Mrs.S.Bharathi,
Government Advocate (crl side)

JUDGMENT

This appeal is filed as against the conviction and sentence imposed on the appellants in Special Sessions Case No.78 of 2008 by judgment dated 30.09.2009 passed by the learned I Additional Sessions Judge, (PCR), Thanjavur.

2.The appellants are the accused in Special Sessions Case No.78 of 2008, on the file of the learned I Additional Sessions Judge, (PCR), Thanjavur and the accused No.1 was tried for the commission of offence under Sections 323(2) counts, 354, 506(i) IPC and under Section 3(1)(x) of SC/ST Act, 1989 and accused No.2 was tried for the commission of offence under Sections 323, 354 and 506 (i) IPC and under Section 3(1)(x) of SC/ST Act, 1989 and the trial

Court by judgment dated 30.09.2009 convicted the appellants and sentenced them as follows:

Accused	Section of Law	Sentence of imprisonment
A1 and A2	354 IPC	Simple imprisonment for one year
A1 and A2	323 IPC	Simple Imprisonment for six months

However, the trial Court acquitted the appellants from the charges under Section 506(i) IPC and under Section 3(1)(x) of SC/ST Act, 1989.

3.The case of the prosecution is that on 17.05.2008 around 11.00 pm, when the defacto complainant, namely, Marimuthu [female] belonging to Scheduled Caste Community, took some wooden logs belonging to the accused to her house, the accused went to the house of the defacto complainant and misbehaved with her and insulted by calling her caste name and the accused No.1 caught hold of the defacto complainant and accused No.2 tried to remove her saree and the accused assaulted the defacto complainant and pushed her down and when PW2 came to her rescue, the accused criminally intimidated him with Aruval and assaulted him as well as the defacto complainant.

4.Based on the complaint lodged by the defacto complainant on 18.05.2008, a case was registered in Crime No.146 of 2008 on the file of the Vaimedu Police Station, Vedaraniyam, District and after conducting investigation, the Deputy Superintendant of Police, Vedaranyam laid a final report before the District Munsif cum Judicial Magistrate, Vedaranyam and the same was taken on file in PRC No.65 of 2008 and committed to the I Additional Sessions Judge (PCR), Thanjavur and it was taken on file in Spl.S.C.No.78 of 2008.

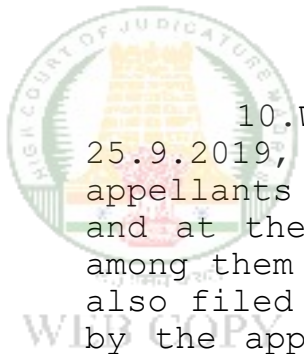
5.During trial, 13 witnesses have been examined and 11 documents were marked on the side of the prosecution.

6.The incriminating materials were placed before the accused under Section 313 CrPC and the accused had denied them, however, no witness was examined and no document was marked on the side of the accused.

7.In conclusion of the trial, the trial Court found the appellants guilty, convicted and sentenced them as stated supra.

8.As against the conviction and sentence imposed, the appellants have preferred the present appeal.

9.Heard Mr.A.Arun Prasad, learned Counsel appearing for the appellants and Mrs.S.Bharathi, learned Government Advocate (Cr1Side) appearing for the State.



10. When the matter has been taken up for hearing on 25.9.2019, the learned Counsel for the appellants submitted that the appellants and the defacto complainant belong to the same village and at the intervention of the elders, they settled their dispute among them amicably and have entered into a compromise and they have also filed a compromise memo dated 25.09.2019, which has been signed by the appellants and the defacto complainant and attested by the learned Counsel for the appellants.

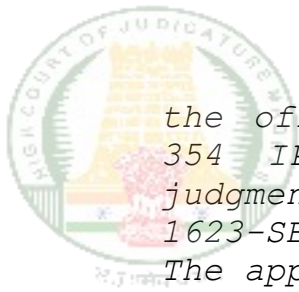
11. Section 320 Cr.P.C. prescribes the offences to be compounded and the offences which are not compoundable. The accused were convicted for the offence under Sections 354 & 323 IPC. Of these two offences, the offence under Section 323 IPC is a compoundable, whereas, the offence under Section 354 IPC is not a compoundable one.

12. The occurrence was taken place in the year 2008. The appellants are none other than the neighbours of the defacto complainant. The complainant herself has appeared before this Court along with a compromise memo that the appellants need not be convicted.

13. In similar circumstances, the Hon'ble Supreme Court, in the decision reported in **(2014) 4 SCC 14**, in **Bharti vs. State of Haryana and another**, while dealing with the offence under Section 354, which is a non-compoundable one, has held as follows:

"6. We are mindful of the fact that Section 354 IPC is, as of today, non-compoundable. But, as noticed by us, it was compoundable when the instant offence was committed with the permission of the court. Even then, we would have hesitated to permit compounding of the offence. But, facts of this case are very peculiar. Respondent 2 and her husband have, even today, maintained their stand taken in the trial court that they have entered into a compromise with the appellant. As we have already noted, Respondent 2 has filed an affidavit to that effect in this Court. Compromise is, therefore, not an afterthought. Pertinently, the incident in question took place way back in the year 2000. About 13 long years have gone by. In her affidavit Respondent 2 has stated that the appellant is her neighbour and they are staying peacefully since 2000 till date. We are of the opinion that since the appellant and Respondent 2 are neighbours it would be in the interest of justice to permit the parties to compound the offences. If the conviction is confirmed, the relations may get strained and the peace, which is now prevailing between the two families, may be disturbed.

7. In the peculiar facts of this case, therefore, in order to accord quietus to the disputes between the appellant and Respondent 2 and in the larger interest of



the offences. Accordingly, offences under Sections 451 and 354 IPC are permitted to be compounded. The impugned judgment [Bharti v. State of Haryana, Criminal Appeal No. S-1623-SB of 2002, decided on 26-9-2013 (P&H)] is set aside. The appellant is acquitted."

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14. Keeping in mind the aforesaid decision of the Hon'ble Supreme Court, this Court, in order to accord quietus to the dispute between the appellants and the complainant and in the larger interest of their welfare, permits the appellants and the complainant to compound the offence under Sections 354 & 323 IPC. Accordingly, the offence under Sections 354 & 323 IPC are permitted to be compounded.

15. In the result, this Criminal Appeal is allowed and the impugned judgment passed by the learned I Additional Sessions Judge, (Protection of Civil Rights), Thanjavur in S.S.C.No.78 of 2008, dated 30.09.2009, is set aside and the appellants are acquitted of the charges framed against them. Bail bonds, if any executed, shall stand terminated.

Sd/-

Assistant Registrar ()

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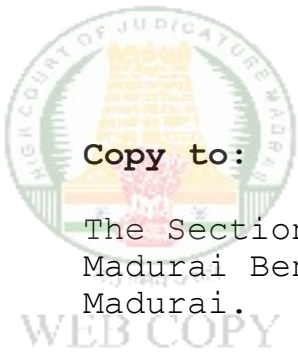
/ /2020

Sub Assistant Registrar(CS)

dsk/gk

To

- 1.The I Additional Sessions Judge,
(Protection of Civil Rights)
Thanjavur.
- 2.The Judicial Magistrate No.1,
Thanjavur.
- 3.The Deputy Superintendent of Police,
Voimedu Police Station,
Vedaraniyam,
Nagapattinam District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



Copy to:

The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

Cr1.A(MD)No.314 of 2009

20.12.2019

SPU(29.07.2020) 5P 7C