



Bail Slip

This Appellant namely C.Saravanan, S/o.Chockalingam, was released on by bail as per the order of this Court, dated 07.12.2011, made in MP(MD)No.2/2011 in Crl.A.(MD)No.345 of 2011.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.A.(MD)No.345 of 2011

C.Saravanan

... Appellant/Accused

Vs.

The State represented by,
The Deputy Superintendent of Police,
Mannarkudi Town Police Station,
Mannarkudi,
Tiruvarur District.
(Crime No.381 of 2009)

... Respondent/Complainant

Prayer: Criminal Appeal is filed under Section 374 of Cr.P.C, to call for the entire records pertaining to the Judgment rendered by the learned Additional Sessions Judge(PCR), Thanjavur, Thanjavur District in Spl.S.C.No.48 of 2010 vide his Judgment dated 16.09.2011 and set aside the same and consequently acquit the appellant.

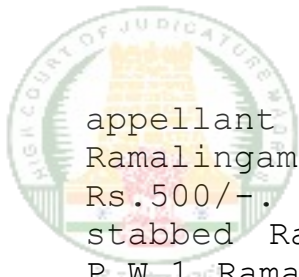
For Appellant : Mr.R.Sivalingam,
Legal Aid Counsel.

For Respondent : M/s.S.Bharathi
Government Advocate (Crl. Side)

JUDGMENT

The appellant was convicted for the offence under Section 324 of I.P.C. and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes(Prevention of Atrocities) Act 1989 and sentenced to undergo 1 year Rigorous Imprisonment for each of the offences and also levied with fine vide Judgment dated 16.09.2011 in S.S.C.No.48 of 2010 on the file of the I Additional Sessions Judge (PCR), Thanjavur.

2. The prosecution case is that on 22.07.2009 at about 10.30 a.m., P.W.1 Ramalingam had gone to the neighbouring tea shop for having tea. Ramalingam was running a Mutton stall. At that time the appellant is said to have entered the shop of P.W.1 and the appellant walked past the said tea shop. According to P.W.1, the



appellant had taken a sum of Rs.500/- from his cash box. P.W.1 Ramalingam demanded the appellant to return the said amount of Rs.500/-. Enraged by the same, the appellant is said to have stabbed Ramalingam. The appellant is also said to have abused P.W.1 Ramalingam by referring to his community. P.W.1 Ramalingam belongs to S.C community, while the appellant belongs to Maravar community. P.W.1 Ramalingam was rushed to Government Hospital, Mannarkudi. Police intimation was sent. The Sub Inspector of Police, Mannarkudi Town police station came to the hospital and recorded the statement of P.W.1 Ramalingam. Based on the same, Crime No.381 of 2009 was registered for the offence under Section 379, 307 r/w. Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes(Prevention of Corruption) Act 1989. Investigation was taken up by the Deputy Superintendent of Police, Mannarkudi Town police station. After completing the usual formalities, final report was laid before the Judicial Magistrate, Mannarkudi. The case was committed to the Special Court vide P.R.C.No.42 of 2009. The case was taken up for trial in S.S.C.No.48 of 2010 on the file of the I Additional Sessions Judge(PCR), Thanjavur. As many as five charges were framed against the appellant. They are as follows:-

I Charge	u/s.380 of I.P.C.
II Charge	u/s.3(1)(x) of SC/ST Act 1989
III Charge	u/s. 307 of I.P.C.
IV Charge	u/s.506(ii) of I.P.C.
V Charge	u/s.3(2)(5) of SC/ST Act,1989

The appellant denied the same and claimed to be tried. The prosecution examined as many as 21 witnesses and marked Ex.P.1 to Ex.P.14. M.O.1 to M.O.3 were also marked. On the side of the accused, no evidence was adduced. The learned trial Judge acquitted the appellant in respect of the offence under Section 380, 307 and 506(ii) of I.P.C., and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes(Prevention of Atrocities) Act. However, the appellant was found guilty of the offence under Section 324 of I.P.C., and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes(Prevention of Atrocities) Act 1989. Questioning the same, this Criminal Appeal has been filed.

3. When the matter was taken up for hearing, there was no representation on the side of the appellant. Therefore, this Court directed the Registry to appoint a Legal Aid counsel. Today when the matter was taken up for hearing, the learned Legal Aid counsel reiterated the contentions set out in the appeal memorandum.

4. In support of the charge of this case, the prosecution examined 15 eyewitnesses. Out of them, P.Ws.10,11,13,14 and 15



turned hostile. Out of the remaining eyewitnesses, P.W.2 did not state that the appellant abused the victim by referring to his community. P.W.4 also does not support the charge in respect of the SC/SC Act. Likewise P.W.6, P.W.7 and P.W.9 also did not depose that the appellant abused the victim by referring to his community. P.W.2 to P.W.9 were all customers who were having tea in the tea shop to which the victim had gone. In other words, all of them were present. But then, as many as four of them did not support the case of the prosecution that the appellant abused the victim by referring to his community. But all of them in unison have testified that the appellant stabbed the victim at various parts of his body. What is more significant is that P.W.15 also turned hostile. P.W.15 is none other than the son of the defacto complainant. It is quite strange that P.W.15 also did not support the prosecution case. P.W.15 would state that he was not present at the scene of occurrence and that he only heard about the occurrence later. P.W.15 turning hostile in my view is significant. This only shows that the prosecution had all out in favour of the appellant to somehow fix him in respect of the charge under Section 3(1)(x) of the SC/ST Act.

5. What triggered the entire occurrence was the suspicion entertained by P.W.1 that the appellant stole a sum of Rs.500/- from the cash box in his mutton stall. But the appellant was acquitted of the offence under Section 380 of I.P.C.

6. I carefully went through the testimony of P.W.1. P.W.1 states that when he went out his shop to take tea in the shop of P.W.2, he took with him a knife also. The appellant was not armed when the initial confrontation between him and P.W.1 Ramalingam took place. The appellant had taken a butcher knife from P.W.1 and with that slashed him.

7. It is true that a verbal quarrel arose between P.W.1 Ramalingam and the appellant and that it turned into a serious fight in which the appellant had stabbed P.W.1. I am of the view that the allegation that the appellant abused P.W.1 by referring to his community was introduced to strengthen the prosecution case. As already pointed out, as many as eight witnesses were examined to support the prosecution case. Out of them, four of them stated that the appellant attacked P.W.1. Four of them did not testify that the appellant uttered the offending words. The son of P.W.1 himself turned hostile.

8. Therefore, I am of the view that the appellant could not have been convicted for the offence under Section 3(1)(x) of the SC/ST Act. He is acquitted of the charge under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. But then, the conviction under Section 324



of I.P.C. will have to be necessarily sustained. The appellant is present in person before me and he admits that he had caused injuries as mentioned by the prosecution. The victim was in hospital for about 13 days. The appellant was in prison for 60 days. The occurrence had taken place more than 10 years ago. The appellant states that after this occurrence, he is in good terms with P.W.1. This Court posed a question to the appellant as to whether he can bring the victim before me. The appellant readily agreed. He also came forward to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of S.C.No.48 of 2010 on the file of the learned I Additional Sessions Judge(PCR), Thanjavur, within a period of three weeks from the date of receipt of a copy of this order. The appellant also agrees to execute an affidavit of apology expressing his regret for having attacked P.W.1. After the appellant makes the said deposit, the said amount shall be handed over by the learned trial Judge to P.W.1 along with a copy of the affidavit of apology given by the appellant. The sentence of one year Rigorous Imprisonment imposed on the appellant for the offence under Section 324 of I.P.C., is modified and reduced to the period already undergone. The bail bond, if any executed by him shall stand cancelled. If the appellant fails to adhere to the undertaking given before me, the sentence of imprisonment imposed by the trial Court will stand automatically restored.

9. The Criminal Appeal stands partly allowed. No costs.

Sd/-

Assistant Registrar (RECORDS)

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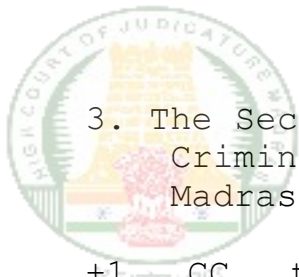
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Sub Assistant Registrar(CS)

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To:

1. The Additional Sessions Judge(PCR),
Thanjavur, Thanjavur District.
2. The Deputy Superintendent of Police,
Mannarkudi Town Police Station,
Mannarkudi, Tiruvarur District.



3. The Section Officer, -2 copies
Criminal Section,
Madras High Court of Madurai Bench, Madurai.

+1 CC to Mr.R.SIVALINGAM, Advocate (SR-78960[F] dated
31/07/2019)

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31.07.2019

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