



Bail Slip

Petitioners/Accused 1 to 4 were already released on bail vide this Court order dated 08.07.2011 and made in MP(MD)No.2/2011 in Crl.RC(MD)No.496 of 2011

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C.(MD)No.496 of 2011 and

CRL.M.P.(MD)No.6831 of 2019

1. Velusamy
2. Arasaiah
3. Vel Karuppu
4. Muthaiah

... Petitioners/Appellants/
Accused Nos.1 to 4

Vs.

Mylammal

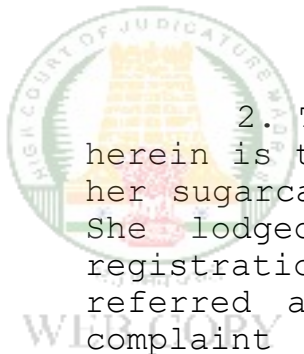
... Respondent/Respondent/
Complainant

Prayer: Criminal Revision is filed under Section 397 and 401 of Cr.P.C, to set aside the Judgment made in C.A. No.82 of 2010 on the file of the Additional District Sessions Judge cum Fast Track Court, Periyakulam dated 14.06.2011 against the conviction and sentence in C.C.No.433 of 1996 on the file of the District Munsif cum Judicial Magistrate, Andipatti dated 30.11.2010 and acquit the petitioners.

For Petitioners : Mr.K.Baalasundaram
For Respondent : Mr.V.Kathirvelu,
Senior Counsel,
for Mr.K.Prabhu.

O R D E R

The Revision petitioners herein were convicted for the offence under Sections 147, 148 and 435 of I.P.C., and sentenced to one year Rigorous Imprisonment, two years Rigorous Imprisonment and 2 years Rigorous Imprisonment respectively, vide Judgment dated 30.11.2010 in C.C.No.433 of 1996 on the file of the District Munsif cum Judicial Magistrate, Andipatti. In fact there were originally five accused. Accused No.5 died during the trial. The Judgment of the learned trial Magistrate was confirmed in C.A.No.82 of 2010 on the file of the Additional District and Sessions Judge/Fast Track Court, Periyakulam. Challenging the same, this Criminal Revision has been filed.



2. This case arose out of a private complaint. The respondent herein is the complainant. According to her, the accused set fire to her sugarcane field as well as to her thatched house on 30.03.1996. She lodged a case before Rajthani police station leading to registration of Crime No.70 of 1996. But then, the case was referred as "Mistake of Fact". Therefore, the present private complaint came to be filed. The complainant examined herself as P.W.1. Her husband was examined as P.W.2. Her daughter was examined as P.W.3. P.W.4 is the son of the complainant. P.W.5 is the photographer. P.W.6 is the Fire Officer. Ex.P.1 to Ex.P.5 were marked. On the side of the accused, the first petitioner herein examined himself as D.W.1. Ex.D.1 to Ex.D.6 were also marked. On the side of the accused, photographs were marked.

3. Both the Courts below concurrently found the petitioners guilty.

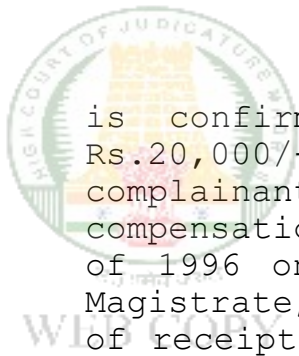
4. Heard the learned counsel appearing for the petitioners and the learned Senior counsel appearing for the complainant/respondent.

5. The petitioners' counsel would make a faint submission that the complainant is not in a position to specify the survey number in which the occurrence had taken place and that no revenue record has been produced to support her ownership claim.

6. That mischief by fire was committed is clear from the testimony of P.W.6 Fire Officer. The photographs also clearly indicate that mischief had occurred and the field which the complainant was cultivating was set fire. In fact the petitioners' counsel submitted that having regard to the evidence on record, particularly, the concurrent findings were rendered by the Courts below, he would not be in a position to challenge the finding of guilt and that he would be satisfied, if substantial leniency is shown in the matter of punishment.

7. The occurrence took place way back in the year 1996. More than 23 years have gone by. The revision petitioners are brothers. All of them are the sons of one Rasu Thevar. The said Rasu Thevar was murdered. The complainant and her husband figured as accused in the said criminal case. Of course the said criminal case ended in acquittal. It is seen that there is a considerable strain between the family of Rasu Thevar and the family of the complainant. Though the complainant would make a fanciful claim that the loss is to the tune of Rs.3 Lakhs, in the cross examination P.W.6 would state that the loss would be a sum of Rs.20,000/-.

8. Taking note of the fact that the occurrence took place in the year 1996, I am of the view that the petitioners need not go to jail. The sentence of imprisonment imposed on the revision petitioners be set aside, even while, the conviction imposed on them



is confirmed. The petitioners are directed to pay a sum of Rs.20,000/- (Rupees Twenty Thousand only) each as compensation to the complainant. The Revision petitioners shall deposit the said compensation amount (Totally Rs.80,000/-) to the credit of C.C.No.433 of 1996 on the file of the learned District Munsif cum Judicial Magistrate, Andipatti, within a period of eight weeks from the date of receipt of a copy of this order. Upon such deposit, the learned trial Magistrate shall hand over the said compensation amount to the complainant. If the petitioners failed to deposit the compensation amount, the Judgment passed by the Courts below will stand automatically restored.

9. The Criminal Revision stands partly allowed, accordingly. The bail bond, if any, executed by them shall stand cancelled. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Additional District Sessions Judge cum
Fast Track Court, Periyakulam.
2. The District Munsif cum Judicial Magistrate,
Andipatti.
3. The Section Officer, Criminal Section, (2 COPIES)
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.K.PRABHU, Advocate (SR-78691[F] dated 30/07/2019)
+1 CC to Mr.K.BAALASUNDHARAM, Advocate (SR-78749[F] dated
31/07/2019)

Crl.R.C(MD)No.496 of 2011&
CRL.M.P. (MD)No.6831 of 2019
30.07.2019

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