

**Bail Slip**

Revision Petitioners/Accused 2,3,4 & 6 namely 1)M.Mani, 2) M.Muthukaruppu, 3)M.Meganathan, 4) M.Muthusamy was directed to be released on bail in and by the order of this Court dated 12.08.2011 made in MP(MD).No.2 of 2011 in Cr1.R.C.(MD).No.686 of 2011

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1. R.C.(MD)No.686 of 2011

1. M.Mani
2. M.Muthukaruppu
3. M.Meganathan
4. M.Muthusamy

.. Petitioners/
Accused Nos.2,3,4 & 6

Vs.

1. The State of Tamil Nadu,
Represented by,
The Inspector of Police,
Narikudi Circle,
A.Mukkulam Police Station,
Virudhunagar District.
(Crime No.20 of 2002)

.. Respondent/Complainant

2. Bose @ Raman

.. Respondent/
Defacto Complainant

Prayer : This Criminal Revision is filed under Section 397 r/w 401 of Cr.P.C., to call for the records in Judgment in Cr1.A.No.12 of 2007 on the file of the learned Principal Sessions Judge, Virudhunagar District at Srivilliputhur, dated 19.07.2011 modified the order of conviction passed by the learned Assistant Sessions Courts, Aruppukottai, in S.C.No.22 of 2004, dated 11.01.2007 under Sections 148, 341 and 307 of I.P.C., and set aside the same and consequently acquit the Revision petitioners.

For Petitioners: Mr.T.Lajapathi Roy

For R-1 : Mr.A.Robinson,
Government Advocate(Cr1.Side).

For R-2 : Mr.C.Mayil Vahana Rajendran

**ORDER**

The Revision petitioners along with six others were prosecuted in S.C.No.22 of 2004 on the file of the learned Assistant Sessions Judge, Aruppukottai. By Judgment dated 11.01.2007, the learned trial Judge imposed the following conviction and sentence on the petitioners :-

Rank of the accused	Offence	Sentence	Fine	Default of payment
Accused No.2	148 of I.P.C.	2 years R.I.	Rs.1,000/-	3 months R.I.
	307 of I.P.C.	7 years R.I.	Rs.5,000/-	Usual default clause.
Accused No.3	148 of I.P.C.	2 years R.I.	Rs.1,000/-	3 months R.I.
	307 of I.P.C.	7 years R.I.	Rs.5,000/-	Usual default clause.
Accused No.4	148 of I.P.C.	2 years R.I.	Rs.1,000/-	3 months R.I.
	307 of I.P.C.	7 years R.I.	Rs.5,000/-	Usual default clause.
Accused No.6	148 of I.P.C.	2 years R.I.	Rs.1,000/-	3 months R.I.
	307 of I.P.C.	7 years R.I.	Rs.5,000/-	Usual default clause.
	341 of I.P.C.	-	Rs.500/-	1 week S.I.

Aggrieved by the same, the convicted accused filed C.A.No.12 of 2007 before the learned Principal Sessions Judge, Virudhunagar District at Srivilliputhur. By Judgment dated 19.07.2011, the appellate Court modified the conviction and sentence rendered by the trial Court as follows:-

Rank of the accused	Offence	Sentence	Fine	Default of payment
Accused No.2	324 of I.P.C.	3 years R.I.	Rs.5,000/-	6 months R.I.
Accused No.3	326 of I.P.C.	5 years R.I.	Rs.5,000/-	1 year R.I.
Accused No.4	324 of I.P.C.	3 years R.I.	Rs.5,000/-	6 months R.I.
Accused No.6	324 of I.P.C.	3 years R.I.	Rs.5,000/-	6 months R.I.



Challenging the same, the petitioners herein/accused Nos.2, 3, 4 and 6 have filed this Criminal Revision case.

2. Heard the learned counsel on either side.

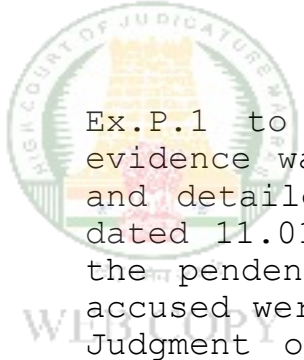
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3. The case of the prosecution is that there was a simmering land dispute between the victim on the one hand and the accused on the other. On 25.03.2002 at about 8.30 a.m., the victim Raman was way laid by accused No.1 Paramalai, accused No.5 Mookan and accused No.6 Muthusamy. At that time, accused No.2 Mani assaulted the victim Raman with Sickle on his right backside and also left side heel and caused him injuries. Accused No.3 Muthukaruppu aimed an attack on the neck of Raman with a Sickle and when Raman tried to ward it off, three of his fingers got severed. Accused No.4 Meganathan also assaulted on the left thigh of Raman. Accused No.6 Muthusamy assaulted Raman on the backside of his neck with the handle portion of the Sickle. Accused Nos.7 to 10 also consciously aided the accused persons in carrying out the assault on Raman.

4. Thereafter, Raman was rushed to Government Hospital, Aruppukottai. P.W.5 was the Doctor who gave initial treatment to Raman. Entry in Ex.A.2 was also made. Thereafter, Raman was referred to Madurai Government Rajaji Hospital, where he was admitted in the casualty ward. Police intimation was sent and at around 06.00 p.m, based on the police intimation, a Head Constable, by name, Dhanapal from A.Mukkulam police station came to Madurai Government Rajaji Hospital. Since the victim Raman was unconscious, the statement given by P.W.1 was recorded in Ex.P.1. Based on Ex.P.1 complaint given by P.W.1, crime No.20 of 2002 was registered on the file of A.Mukkulam police station for the offences under Sections 147, 148, 149, 341, 506(2), 120(b), 109 and 307 of I.P.C.

5. In the First Information Report as many as six persons were named in person. The names of the Revision petitioners herein are mentioned in the First Information Report itself. Thereafter, P.W.7 Inspector of Police took up the investigation and after recording the statements of all the relevant witnesses, he caused the arrest of the accused. P.W.8 took over the investigation from P.W.7 and after completing with all the usual formalities, laid the final report before the Judicial Magistrate, Aruppukottai. Since the case was exclusively triable by the Sessions Court, the case was committed to the learned Sessions Court in P.R.C.No.26 of 2003. The case was ultimately made over to the Assistant Sessions Judge, Aruppukottai, in S.C.No.22 of 2004. Even though in the First Information Report, only six persons were named, the final report was filed against as many as ten persons. The learned trial Judge framed the charges independently against each of ten accused. The accused pleaded not guilty and claimed to be tried.

6. The prosecution examined as many as eight witnesses.



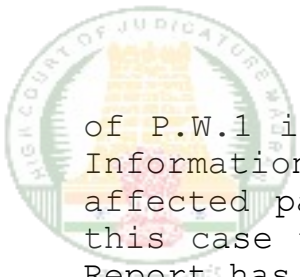
Ex.P.1 to Ex.P.7 were marked. On the side of the accused, no evidence was adduced. The learned trial Judge, after an elaborate and detailed consideration of the evidence of record, by Judgment dated 11.01.2007 acquitted accused Nos.1, 5, 8 to 10. Even during the pendency of the trial, accused No.7 passed away. The other accused were convicted and sentenced as already indicated above. The Judgment of the learned trial Judge was modified in the appeal. Questioning the same, this Criminal Revision case has been filed.

7. The learned counsel appearing for the Revision petitioners submitted that there was an enormous delay in lodging the First Information Report. The station was located at the distance of hardly 1 km. Even though the occurrence was said to have taken place in the morning at about 08.30 a.m, First Information Report came to be registered only at 8.45 p.m. Thus there is a time gap of more than 12 hours.

8. His other submission would be that even though the defacto complainant and the accused are relatives and hailing from the same village, before P.W.5 who gave the initial treatment, it was mentioned that two known persons had assaulted the victim. The names of the assailants were not disclosed to the Doctor. Thus according to the Revision petitioners' counsel, this seriously dents the prosecution case. He would further contend that all the witnesses who had spoken in support of the prosecution case are interested witnesses. In this case, one Head Constable Dhanapal had come to the hospital to record the statement of P.W.2. But then, he was not examined. By taking me through the testimony of P.W.1, the learned counsel would even attempt to cast a doubt on the very authenticity of the complaint. He would further argue that the motive of the case has not at all been established. Since there are lot of contradictions among the testimonies of the prosecution witnesses, he submitted that this Court should not sustain the Judgments passed by the Courts below. He wanted this Court to reverse the Judgment of the appellate Court and acquit all the accused of all the charges.

9. Per contra the learned Government Advocate(Crl.Side) as well as the learned counsel appearing for the defacto complainant wanted this Court to sustain the impugned Judgment and dismiss this Criminal Revision case.

10. I have to straightaway reject the Revision petitioners' contention that the prosecution case should be thrown out, merely because, there was some delay in lodging the First Information Report. It is not in dispute and it cannot be in dispute that the victim Raman was grievously injured. Therefore, his relatives rightly rushed along with him to the hospital. He was first admitted in Aruppukkottai Government Hospital. From there in view of his condition, he was referred to Madurai Government Rajaji Hospital. Police intimation was given from the hospital and police came to the hospital to record the statement of the victim. But then, the victim was unconscious. Therefore, the police had to record the statement



of P.W.1 in Ex.P.1 and based on the same, registered Ex.P.7 First Information Report. It is not as if the victim/P.W.2 who was the affected party wantonly delayed in going to the police station. In this case the delay occasioned in registering the First Information Report has been convincingly explained.

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11. Likewise there is no merit in the petitioners' contention that the names of the assailants were not disclosed to P.W.5 Doctor who treated P.W.2 initially. As rightly pointed out by the learned Government Advocate(Crl. Side), this issue had been answered by the Hon'ble Supreme Court in the following decisions:-

1) Pattipati Venkaiah V. State of Andhra Pradesh((1985) 4 SCC 80:-

"A doctor is not at all concerned as to who committed the offence or whether the person brought to him is a criminal or an ordinary person, his primary effort is to save the life of the person brought to him and inform the police in medico-legal cases. In this state of confusion, P.Ws.1 and 2 may not have chosen to have details of the murder to the doctor. It is well settled that doctors before whom dead bodies are produced or injured persons are brought, either themselves take the dying declaration or hold the post-mortem immediately and if they start examining the informants they are likely to become witnesses of the occurrence which is not permissible."

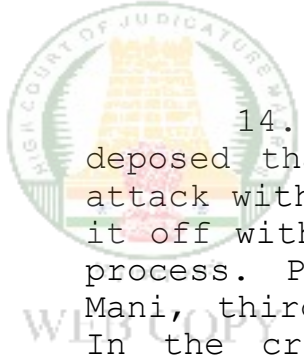
2) P.Babu and others V. State of Andhra Pradesh ((1994) SCC (Crl.) 424 :

"It is a matter of common knowledge that such entry in the injury certificate does not necessarily amount to a statement. At that stage the doctor was required to fill up that column in a normal manner and it was not the duty of the doctor to enquire from the injured patient about the actual assailants and that the inquiry would be confined as to how he received the injuries namely the weapons used etc."

These decisions were followed by a learned Judge of this Court in the decision reported in (2018) 1 M.L.J.(Crl.) 119 (Saranraj V. State).

12. Further, when a person had been grievously and seriously injured to the extent that three of his fingers had been amputated, proof of motive becomes totally irrelevant.

13. There is also no substance in the argument that the prosecution witnesses are interested persons. When the injuries suffered by P.W.2 has been convincingly demonstrated, there is no need to even look for corroboration. When the testimony of the injured witness commands confidence, the Court is definitely entitled to act upon the same.



14. The injured witness was examined as P.W.2. P.W.2 had deposed that Muthukaruppu who was shown as accused No.3 aimed an attack with his Sickle on his neck and since P.W.2 attempted to ward it off with his left hand, three of his fingers were severed in the process. P.W.2 had also individually implicated first petitioner Mani, third petitioner Meganathan and fourth petitioner Muthusamy. In the cross examination, the testimony of P.W.2 could not be shaken. P.W.1 who is also a close relative happened to witness the occurrence. In fact it was he who gave Ex.P.1 complaint to the police, when examined in the hospital. P.W.3 is another relative who happened to witness the occurrence. Thus in this case the testimony of the injured witness has been corroborated by the testimonies of the two eyewitnesses. The Courts below have accepted the version of the prosecution witnesses.

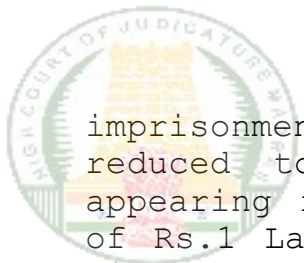
15. When the petitioners have been concurrently found guilty of the offences in question, in exercise of Revisional jurisdiction, I do not find it possible to take a different view. Even though in the Revisional jurisdiction, there is no scope for re-appreciation of evidence, I still went through the evidence on record and I am satisfied that the prosecution had established its case against the petitioners herein in respect of the offences with which they were found guilty beyond reasonable doubt. Thus the conviction imposed by the appellate Court on the Revision petitioners herein stands confirmed.

16. Now comes the question of sentence. The occurrence in question had taken place as early as on 25.03.2002. More than 17 years have elapsed. The learned counsel appearing for the Revision petitioners repeatedly pleaded before this Court that the Revision petitioners are ready to compensate the defacto complainant. They offer to pay a sum of Rs.1 Lakh as compensation.

17. This Court wanted to know as to whether the offer made by the accused is acceptable to the victim. The victim P.W.2 appeared before this Court and stated that he is not ready to accept the offer of the Revision petitioners. In fact this Court could see that three of his fingers have been severed. The mental agony and the physical disability caused to the victim P.W.2 is truly enormous. Therefore, this Court can understand the stand of the victim.

18. But then, on a careful perusal of the testimony of P.W.2, this Court is able to see that it was only Muthukaruppu/ accused No.3 who was responsible for the severance of the fingers on the victim, P.W.2 Raman. Muthukaruppu had been sentenced to five years Rigorous Imprisonment for the offence under Section 326 of I.P.C. The same is reduced to three years Rigorous Imprisonment, taking note of the mitigating factors pleaded by his counsel.

19. The other petitioners, namely, accused No.2 Mani, accused No.4 Meganathan and accused No.6 Muthusamy had spent about 50 days in prison. They are all ordinary poor villagers. The sentence of



imprisonment imposed on accused Nos.2, 4 and 6 is modified and reduced to the period already undergone. The learned counsel appearing for the Revision petitioners undertakes to deposit a sum of Rs.1 Lakh as compensation. Revision petitioners 1, 3 and 4 are directed to deposit jointly a sum of Rs.1,00,000/- (Rupees One Lakh only) as compensation to the credit of S.C.No.22 of 2004 on the file of the learned Assistant Sessions Judge, Aruppukottai, within a period of six months from the date of receipt of a copy of this order. Upon such deposit, the same shall be handed over to the victim P.W.2 Raman. If the said amount is not deposited as undertaken before this Court now, the Judgment of sentence imposed by the appellate Court on them will stand automatically restored.

20. The sentence imposed on accused No.3 Muthukaruppu stands modified.

21. With this modification and the direction to pay compensation, the Criminal Revision stands partly allowed. The learned trial Judge is directed to secure Revision petitioner No.2/accused No.3 Muthukaruppu to undergo the remaining period of sentence. The bail bond if any, executed by the other petitioners shall stand cancelled. No costs.

Sd/-

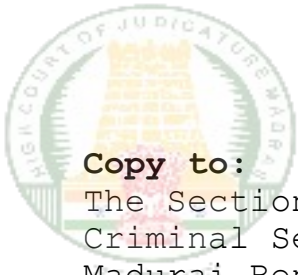
Assistant Registrar (Crl.Side)

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Sub Assistant Registrar(CS)

To

1. The Principal Sessions Judge,
Virudhunagar District at Srivilliputhur.
2. The Assistant Sessions Judge,
Aruppukottai.
3. The Judicial Magistrate, Aruppukottai, Virudhunagar District
4. Do through the Chief Judicial Magistrate,
Virudhunagar at Srivilliputhur.
5. The Inspector of Police,
Narikudi Circle, A.Mukkulam Police Station,
Virudhunagar District.
6. The Superintendent, Central Prison, Madurai.
7. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

**Copy to:**

The Section Officer, (2 Copies)
Criminal Section, (Records)
Madurai Bench of Madras High Court, Madurai.

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+1 CC to M/s.C.MAYIL VAHANA RAJENDRAN, Advocate (SR-75167[F] dated 15/07/2019)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-75249[F] dt.15/07/2019)

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12.07.2019

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