

**Bail Slip**

The Appellant herein/ Accused viz., namely Dhanislas S/o Saveriya Pitchai was released on Bail as per order of this Court dated 02.08.2010 and made in MP(MD)No.1 of 2010 in CrI.A(MD).No.314 of 2010.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.A(MD).No.314 of 2010

Dhanislas

... Appellant/Accused No.1

Vs

State Rep. by
The Deputy Superintendent of Police,
Srivaikundam Kurmbur Police Station,
Tuticorin District.
In Crime No.161 of 2007.

... Respondent / Complainant

PRAYER: Appeal filed under Section 374(2) of Cr.P.C., against the Judgment and Sentence passed in S.C.No.22 of 2008, dated 24.08.2010, on the file of the learned II Additional District and Sessions Judge, Tirunelveli.

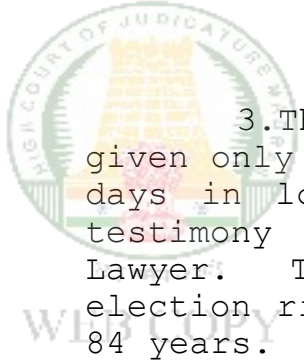
For Petitioner : M/s.S.Prabha

For Respondent : Mr.A.Robinson
Government Advocate (CrI.side)

JUDGMENT

The appellant was found guilty of the offence under Section 3 (1)(x) of SC/ST (Prevention of Atrocities) 1989 and sentenced to undergo six months rigorous imprisonment and to pay a fine of Rs.1,000/- in default to suffer two months rigorous imprisonment, vide Judgment dated 24.08.2010 in S.C.No.22 of 2008, on the file of the learned II Additional District and Sessions Judge, Tirunelveli.

2.The appellant was a former President of the local panchayat. P.W.1 was the President of the panchayat at the relevant time, i.e., 21.09.2007. The case of the prosecution is that on 21.09.2007 at about 11.00 a.m., the accused 1 and 2 came to the panchayat office and abused P.W.1 by referring to his Community.



3. The appellant's counsel pointed out that the complaint was given only on 24.09.2007. Thus, there is a delay of more than three days in lodging the complaint. P.W.1 had also admitted in his testimony that the complaint itself was drafted by a Communist Lawyer. This Court cannot, therefore, rule out the existence of election rivalry between the two. The appellant is now aged about 84 years. The appellant has filed an affidavit through his counsel, stating that he does not believe in the practice of untouchability and that he respects all communities and that he expresses his sincere apologies to P.W.1, Thiru.Paul if his feelings have been hurt by his actions. I am of the view that for the reasons set out above namely, delay in lodging the complaint and the fact that the complaint itself was prepared by a lawyer, the possibility of false implication cannot be ruled out. P.W.1 was not a rustic individual. He was a panchayat President. If really he had been insulted by referring his community he would have definitely gone to the police immediately. Therefore, I am of the view that the delay occasioned in this case would enure to the benefit of the appellant. The Court below did not take note of these aspects. This Court is of the view that the impugned Judgment is liable to be set aside. Accordingly, it is set aside. The petitioner is acquitted. The fine amount, if any, paid by him shall be refunded forthwith. The bail bond, if any executed by the appellant shall stand cancelled. The Criminal Appeal stands allowed.

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar

To

1. The II Additional District and Sessions Judge, Tirunelveli.
2. The Principal Sessions Judge,
Tirunelveli.
3. The Deputy Superintendent of Police,
Srivaikundam Kurmbur Police Station,
Tuticorin District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
5. The Record Keeper, (2 Copies)
Criminal section,
Madurai Bench of Madras High Court,
Madurai.

Crl.A(MD).No.314 of 2010
22.07.2019