

**BAIL SLIP**

1.Mohan, S/o Thiagarajan, Appellant/Accused A1
2.Navaneethan, S/o.Thiagarajan, Appellant/Accused A2, 3. Lakshmanan,
S/o Kulandaikannu, Appellant/Accused A4 were released on Bail vide
court order dated 14.03.2013 made in MP(MD)No.1 of 2013 in Cr1 A(MD)
No.91 of 2013.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.A.(MD)No.91 of 2013

1. Mohan
2. Navaneethan
3. Lakshmanan

... Appellants/Accused 1,2,4

Vs.

State rep. by,
The Inspector of Police,
Orathanadu Police Station,
Thanjavur District.
(Crime No.385 of 2009)

... Respondent/Complainant

Prayer: Criminal Appeal is filed under Section 374(1) of Cr.P.C, to set aside the Judgment and conviction imposed on the appellants by the learned III Additional District Sessions Judge, Thanjavur at Pattukottai by its Judgment dated 27.02.2013 in S.C.No.167 of 2011 and acquit the appellants.

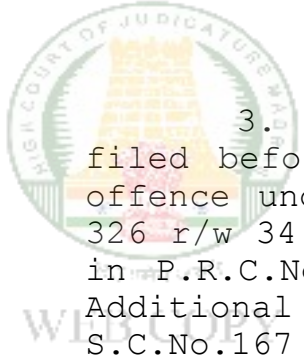
For Appellants : Mr.G.Karnan

For Respondent : Mr.A.Robinson,
Government Advocate (Cr1. Side).

JUDGMENT

The appellants were convicted for the offence under Section 326 of I.P.C., and sentenced to undergo six months Rigorous Imprisonment each and levied with a fine of Rs.2,000/- each, vide Judgment dated 27.02.2013 in S.C.No.167 of 2011 on the file of the learned III Additional District and Sessions Judge, Thanjavur at Pattukottai. Challenging the same, this Criminal appeal has been filed.

2. The case of the prosecution is that on 17.10.2009 at about 10.30 p.m., the appellants herein attacked P.W.1 and caused him grievous injuries. P.W.1 lodged Ex.P.1 complaint before Orathanadu police station leading to registration of Ex.P.8 First Information Report in Crime No.385 of 2009.



3. Investigation was taken up and final report came to be filed before the learned Judicial Magistrate, Orathanadu, for the offence under Sections 307 r/w 34 of I.P.C., and Sections 324 and 326 r/w 34 of I.P.C. The case was committed to the Sessions Court, in P.R.C.No.6 of 2010. The case was made over to the learned III Additional District Sessions Judge, Thanjavur, at Pudukottai in S.C.No.167 of 2011. The charges were framed under Sections 307 and 326 of I.P.C. The appellants pleaded not guilty of the charges and claimed to be tried. The prosecution examined as many as 13 witnesses and marked Ex.P.1 to Ex.P.15. M.O.1 to M.O.4 were also marked. On the side of the accused, no oral evidence was let in. Ex.D.1 alone was marked. The learned trial Judge while acquitting the appellants for the offence under Section 307 of I.P.C., found them guilty of the offence under Section 326 of I.P.C., and sentenced them as mentioned above. Challenging the same, this Criminal Appeal has been filed.

4. As rightly pointed out by the learned Government Advocate, the evidence of Natarajan who was examined as P.W.1 is sufficient to sustain the impugned Judgment. But then, the learned counsel appearing for the appellants submitted that he would not be in a position to challenge the finding of guilt and that he would be satisfied, if leniency is shown in the matter of sentence. The appellants are now willing to pay a sum of Rs.10,000/- each as compensation to P.W.1 Natarajan.

5. Having regard to the mitigating aspects that are obtaining in this case, this Court even while sustaining the conviction imposed on the appellants, sets aside the sentence of imprisonment imposed on them. The first appellant had spent 25 days in prison, while the other appellants were granted anticipatory bail. Be that as it may, the appellants are directed to deposit a sum of Rs.10,000/- each (totally Rs.30,000/-) to the credit of S.C.No.167 of 2011 on the file of the learned III Additional District Sessions Judge, Thanjavur at Pattukottai, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the same shall be handed over to P.W.1 Natarajan as compensation. The appellants while depositing such compensation, shall also submit a notarized affidavit of apology expressing their sense of regret and remorse to P.W.1. If the said deposit is not made, the appellants would suffer default sentence of two months Simple Imprisonment.

6. The Criminal Appeal stands partly allowed, accordingly. The bail bond, if any, executed by them shall stand cancelled. No costs.

Sd/-

Assistant Registrar (AS)

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To:

1. The III Additional District Sessions Judge,
Thanjavur at Pattukottai.
2. The Inspector of Police,
Orathanadu Police Station,
Thanjavur District.
3. The Section Officer, (2 copies)
Criminal Section,
Madurai Bench of Madras High Court, Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai

+1 CC to Mr.G.KARNAN, Advocate (SR-78382[F] dated 30/07/2019)

Cr1.A.(MD)No.91 of 2013
26.07.2019

VB(20.12.2019) 3P 7C