

**BAIL SLIP**

P.Krishnamoorthy, S/o.Perumal Naidu, age 45 years is released in bail vide Court order dated 30.10.2013 made in MP(MD)No.2 of 2013 in Cr1 RC(MD)No.736 of 2013.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.R.C(MD)No.736 of 2013

P.Krishnamoorthy ... Petitioner/Appellant/Sole Accused

Vs

The State,
through the Inspector of Police,
Thuraiyur, Thiruchirapalli District.
Cr.No.47 of 2007.

... Respondent/Respondent/Complainant

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the sentence and conviction imposed by the learned III Additional District Judge, Tiruchirapalli in C.A.No.82 of 2011, dated 01.08.2013, confirmed the conviction and sentence passed by the Judicial Magistrate, Thuraiyur, Thiruchirapalli District in C.C.No.149 of 2008, dated 19.07.2011 by allowing this criminal revision petition.

For Petitioner : Mr.A.Hajamohideen

For Respondent : Mr.A.Robinson

Government Advocate (Cr1.side)

ORDER

The case of the prosecution is that on 31.01.2017, due to partition dispute, the revision petitioner Krishnamoorthy attacked P.W.1 defacto complainant. P.W.1 suffered injury on his head. He tried to escape and went into the house of one Gowry. The accused followed him. When the mother-in-law of the defacto complainant intervened, the accused did not even spare her, she lost three of her fingers. In this regard, Ex.P1-Complaint was lodged by P.W.1 before the Inspector of Police, Thuraiyur Police Station. Investigation was taken up and final report was filed before the Judicial Magistrate, Thuraiyur. Cognizance of the offence under Sections 324, 452 and 326 of IPC was taken. The petitioner denied the charges and claimed to be tried. The prosecution examined as many as fifteen witnesses and marked Ex.P1 to Ex.P12. M.O.1 to M.O.4 were also marked. The learned trial Judge, by Judgment dated 19.07.2011, found the petitioner guilty of the offences with which he was charged and sentenced him to undergo six months simple imprisonment for the offence under Section 324 of IPC and one year



simple imprisonment for the offence under Section 452 of IPC and two years simple imprisonment for the offence under Section 326 of IPC. A fine amount was also imposed. Challenging the same, the petitioner herein filed Criminal Appeal No.82 of 2011 before the Third Additional District Judge, Thiruchirapalli. By Judgment dated 01.08.2013, the appeal was dismissed and the Judgment of the trial Magistrate was confirmed. Questioning the same, this criminal revision case has been filed.

2. When the matter was taken up for hearing, the learned counsel appearing for the revision petitioner submitted that having regard to the evidence on record and taking note of the fact that this Court is only exercising revisional jurisdiction, he would not challenge the finding of guilt. He only pleaded for leniency in the matter of sentence. In this case, two persons suffered injuries. P.W.1 brother of the revision petitioner. P.W.12 mother-in-law of the defacto complainant suffered injuries. In fact, P.W.12 had lost of her three fingers in the attack by the petitioner by using M.O.1 Aruval. Attack on a women leading to loss of her three fingers cannot be condoned. I am of the view that the Courts below were very lenient in the matter of awarding sentence. But then, the petitioner's counsel would submit that this is only a dispute between the brothers. More than 12 years have lapsed. The petitioner has not come under adverse notice either earlier or later. He also pointed out that the petitioner is willing to pay Rs.50,000 as compensation to P.W.12 - Saroja.

3. Taking note of this offer made by the petitioner, I am of the view that the imprisonment imposed on the petitioner can substantially be reduced. Therefore, the sentence of imprisonment imposed on the petitioner for the offences in question would stand reduced to two months simple imprisonment. The petitioner shall deposit a sum of Rs.50,000/- within a period of six weeks from the date of receipt of a copy of this order to the credit of C.C.No.149 of 2008 on the file of the Judicial Magistrate, Thuraiyur. Upon such deposit, the same shall be handed over to P.W.12-Saroja as compensation payable to her. If the petitioner fails to deposit the compensation amount, the sentence imposed by the Courts below will stand automatically restored. The period of incarceration already undergone by the petitioner will be set off in terms of Section 428 of Cr.P.C.

4. With this modification, this criminal revision case is partly allowed.

Sd/-

Assistant Registrar

// True Copy //



To

1. The Inspector of Police,
Thuraiyur, Thiruchirapalli District.
2. The Judicial Magistrate,
Thuraiyur, Thiruchirapalli District.
3. The III Additional District Judge,
Tiruchirapalli.
4. The Superintendent of Police,
Trichy District
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai
6. The Section Officer,
Criminal Section, (2 copies)
Madurai Bench of Madras High Court,
Madurai

+1 CC to Mr.A.HAJA MOHIDEEN, Advocate (SR-74579[F] dated
10/07/2019)

Cr1.R.C (MD) No.736 of 2013
10.07.2019

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MK (22.08.2019) 3P 9C