

**BAIL SLIP**

The Appellant/Accused namely Chinnadurai was released on bail as per order of this Court dated 02.06.2015 and made in MP(MD)No.1 of 2015 in CrI RC(MD)No.210 of 2015 in CrI RC(MD)No.210 of 2015 on the file of this Court.

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BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT**DATE : 01.11.2019****CORAM****THE HONOURABLE MR. JUSTICE V.PARTHIBAN****CRL. R.C. (MD) NO. 210 OF 2015**

Chinnadurai

.. Petitioner/Sole Accused

- Vs -

The State, rep. by
The Sub Inspector of Police
Sayalkudi Police Station
Sayalkudi, Ramanathapuram District.
Crime No.205/04

.. Respondent/Complainant

Criminal Revision Case filed u/s 397 r/w 401 of the Code of Criminal Procedure, against the order dated 18.12.2014, passed by the learned Addl. District Court, Ramanathapuram, in C.A. No.2 of 2014 confirming the judgment dated 7.11.2013 passed by the Judicial Magistrate, Mudhukulathur, Ramanathapuram District, in C.C. No.46 of 2011.

For Petitioner : Mr. R.Murugappan

For Respondents : Ms. M.Anantha Devi, GA (CrI. Side)

ORDER

The petitioner was charged and tried before the learned Judicial Magistrate, Mudhukulathur, Ramanathapuram District, in C.C. No.46 of 2011 and on being found guilty, the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one year u/s 324 IPC. Aggrieved by the same, the petitioner preferred appeal before the Addl. District Court, Ramanathapuram, in C.A. No.2 of 2014, which was dismissed confirming the conviction and sentence. Aggrieved by the same, the present revision has been filed by the petitioner/accused.

2. It is the case of the prosecution that the accused/petitioner, due to previous enmity between the family of the accused/petitioner and the defacto complainant, on 11.5.04, the accused, attacked the defacto complainant/P.W.4 with a stick on the hand and cause bite injuries on his cheek. Therefore, on the basis of the complaint Ex.P-1, lodged by P.W.4, the criminal machinery was set in motion by registration of crime No.205/04 and investigation was taken up. After examination of witnesses and medical opinion



from the doctor, the investigation officer, P.W.8, filed the final report against the accused/petitioner herein u/s 324 IPC.

3. After providing the necessary documents to the accused as mandated under the Criminal Procedure Code, the case was taken on file. The prosecution examined eight witnesses as P.W.s 1 to 8 and marked Ex.P-1 to P-6. When the accused was questioned u/s 313 Cr.P.C. on the incriminating circumstances appearing against him, he denied the same. On the side of the accused, neither oral evidence nor any documentary evidence was marked. The trial court, on consideration of the evidence, both oral and documentary, convicted the sentenced the accused/petitioner as above.

4. Against the said judgment of the trial court, the accused preferred appeal before the lower appellate court, which confirmed the order passed by the trial court. Aggrieved by the said confirmation of sentence, the present revision has been filed by the petitioner/accused.

5. Learned counsel appearing for the petitioner pointed out the discrepancies in the testimony of the prosecution witnesses and submitted that the above material discrepancies have not been taken note of by the courts below, while convicting the accused and, therefore, the conviction and the subsequent sentence is liable to be interfered with. In the alternative, it was submitted by the learned counsel for the petitioner that even according to the wound certificate, Ex.P-2, the injuries sustained by P.W.4 are simple in nature. However, the courts below, without considering the said documentary evidence, has convicted the accused and sentenced him to rigorous imprisonment for a period of one year, which is disproportionate to the offence committed by him. It is the submission of the learned counsel for the petitioner that the accused has already been under imprisonment for a period of 45 days and, therefore, this Court may consider reducing the sentence imposed on the petitioner to the period already undergone.

6. This Court heard the learned Government Advocate (Crl. Side) on the above contentions and perused the materials available on record as also the judgments passed by the courts below.

7. A perusal of the testimony of P.W.7, the doctor, who examined P.W.4 and issued Ex.P-2, wound certificate, reveal that on examination of P.W.4, he noted two injuries on the person of P.W.4, which were said to have been caused with the use of a stick, in addition to a bite injury on the right cheek. According to P.W.7, those injuries are simple in nature, which is found reflected in Ex.P-2, wound certificate.

8. The testimony of P.W.4, the defacto complainant reveals that there was previous enmity between him and the family of the accused
<https://hcservices.courts.gov.in/hcservices/> continuation of the said enmity, the incident of



attack by the petitioner on P.W.4 had taken place. It is not also disputed by the prosecution that the injuries found on the person of P.W.4 are simple in nature.

9. The petitioner has been convicted and sentenced u/s 324 IPC. However, Section 324 IPC relates to cause of hurt voluntarily by the use of dangerous weapons, which is likely to cause death.

10. From the above provision of law, it is clear that the attack should be with dangerous weapons which would likely cause death. However, in the present case, the attack on P.W.4 was with the use of stick and further the injuries found on the person of P.W.4 are only simple in nature, which clearly show that the intention of the petitioner/accused was not to cause death. However, it is proved beyond doubt that the petitioner has caused hurt on the person of P.W.4 for which he deserves to be convicted and sentenced. In view of the fact that the hurt caused by the petitioner was not of such a nature as it would likely lead to death and further the fact that injuries found on the person of P.W.4 are simple in nature, this Court is of the considered view that the sentence imposed on the accused/petitioner should be reduced.

11. The petitioner has been under incarceration for a period of 45 days prior to his release on bail, which has been confirmed by the learned Government Advocate. On a consideration of the totality of the circumstances and taking into consideration the evidence available on record, this Court is of the considered view that the sentence imposed on the petitioner/accused for the offence u/s 324 IPC could be reduced to the period already gone.

12. For the reasons aforesaid, this revision petition is disposed of confirming the conviction passed by the courts below, but reducing the sentence imposed on the accused/petitioner to the period already undergone. It is reported that the petitioner is on bail. Bail bonds, if any, executed by the petitioner/accused shall stand terminated.

Sd/-

Assistant Registrar (P AND A)

// True Copy //

Sub Assistant Registrar(CS)

GLN



To

1. The Addl. District Judge,
Ramanathapuram District.

2. The Judicial Magistrate
Mudhukulathur
Ramanathapuram District.

3. The Addl. Public Prosecutor
Madurai Bench of Madras High Court
Madurai.

+1 CC to M/s.R.MURUGAPPAN, Advocate (SR-95680[F] dated 04/11/2019)

**CRL. R.C. (MD) NO. 210 OF 2015
01.11.2019**

KK/SAR/12.11.2019/4P-5C/