

**BAIL SLIP**

Mr. Thirupathi, S/o. Ponnambalam aged about 31 years was released on bail vide Order dated 28.09.2015 in MP(MD)No.1 of 2015 in CrI.RC (MD)No.455 of 2015.

WEB COPY

BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT**DATE : 22.10.2019****CORAM****THE HONOURABLE MR. JUSTICE V. PARTHIBAN****CRL. R.C. (MD) NO. 455 OF 2015**

Thirupathi

.. Petitioner/Accused No.1

- Vs -

State rep.

The Inspector of Police

Pudhukadai Police Station

Kanyakumari District.

(Crime No.159/2004)

.. Respondent/Complainant

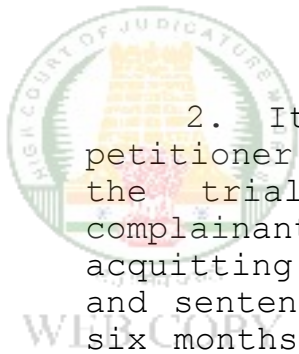
Criminal Revision Case filed u/s 397 r/w 401 of the Code of Criminal Procedure, against the order dated 21.08.2015, passed by the Mahila Court (Fast Track), Nagercoil, in C.A. No.213/05 modifying the order dated 11.08.2005, passed by the Judicial Magistrate No.2, Kuzhithurai in C.c. No.256/2004.

For Petitioner : Mr. N.Mohideen Basha

For Respondent : Mr. V.Neelakandan, APP

ORDER

The present revision has been filed against order passed by the Mahila Court in and by which the sentence of imprisonment along with fine was modified by the appellate court.

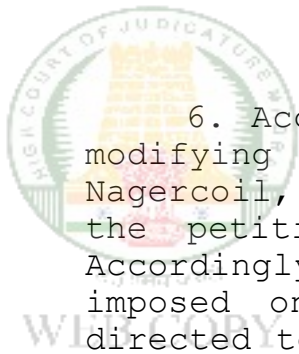


2. It is the case of the prosecution that the revision petitioner and his father, who were arrayed as A-1 and A-2 before the trial court, caused grievous injuries on the defacto complainant. The trial court, after full fledged trial, while acquitting A-2, convicted A-1/petitioner for the offence u/s 325 IPC and sentenced him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.5,000/-, in default to undergo simple imprisonment for a period of one month. On appeal, the appellate court, while confirmed the conviction imposed on the petitioner herein, however, modified the sentence to simple imprisonment to a period of one month and to pay a fine of Rs.10,000/- in default to undergo simple imprisonment for a period of one month. Aggrieved by the said conviction and sentence imposed on the petitioner, the present revision has been filed.

3. Learned counsel appearing for the petitioner contended that though there are very many inconsistencies and infirmities in the testimony of the prosecution witnesses, which has been dealt with by the appellate court while modifying the sentence, however, the appellate court ought not have sentenced the petitioner to simple imprisonment for a period of one month, but could have very well imposed a fine over and above the amount of Rs.10,000/- imposed on the petitioner. Therefore, in all earnestness, it is pleaded by the learned counsel for the petitioner herein that this Court may modify the sentence by setting aside the period of imprisonment, but imposing a fine higher than the one imposed by the appellate court.

4. On the above contention, this Court heard the learned Addl. Public Prosecutor and perused the materials available on record as also the orders passed by the courts below.

5. A perusal of the orders reveal that the courts below have applied their mind and have rightly convicted the petitioner, which warrants no interference. While the learned counsel for the petitioner fairly concedes that he is not contesting the conviction of the petitioner, but would only prevail upon this Court to set aside the sentence of imprisonment imposed on the petitioner, which could be substituted with any further fine, as has been imposed by the appellate court. This Court has also gone through the overt acts attributed to the petitioner herein and the injuries alleged to have been suffered by the defacto complainant, which is also not disputed. Further, it is to be pointed out that the defacto complainant has also not appealed against the reduction in sentence ordered by the appellate court. In such view of the matter, this Court is of the considered view that the plea, as made by the learned counsel for the petitioner, to set aside the sentence of imprisonment in lieu of enhanced fine, could be considered positively.



6. Accordingly, this criminal revision petition is disposed of modifying the order passed by the Mahila Court (Fast Track Court), Nagercoil, by setting aside the sentence of imprisonment awarded to the petitioner in lieu of enhancement of compensation amount. Accordingly, the sentence of simple imprisonment of one month imposed on the petitioner is set aside and the petitioner is directed to pay compensation of Rs.25,000/-, instead of Rs.10,000/- as ordered by the appellate court.

Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar (CS)

GLN

To

1. The Mahila Court,
(Fast Track Court)
Nagercoil.
2. The Judicial Magistrate No.II,
Kuzhithurai.
3. The Principal District Judge,
Nagercoil.
4. The Chief Judicial Magistrate,
Kanniyakumari District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court
Madurai.
6. The Inspector of Police, Pudhukadai Police Station
Kanyakumari District.

+1 CC to M/s.N.MOHIDEEN BASHA, Advocate SR-94305.

CRL. R.C. (MD) NO.455 OF 2015
22.10.2019

CS (05.11.2019) 3P 8C