

**BAIL SLIP**

Revision Petition/Accused viz., A.Iqbal Hussain, was already released on bail on bail vide this court order dated.27.04.2011 and made in MP(MD)No.1/2011 in CrI.RC(MD) No.322/2011.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.R.C(MD)No.322 of 2011

A.Iqbal Hussain

..Petitioner/Accused

Vs

State by
Inspector of Police,
Vallam Police Station,
Thanjavur District.
Crime No.211 of 2009

..Respondent/Complainant

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records of the learned Additional Sessions Judge cum PCR, Thanjavur in CrI.A.No.119 of 2010 by Judgment dated 05.04.2011 confirming the conviction and modifying the sentence recorded by the learned Additional Assistant Sessions Judge, Thanjavur in S.C.No.128 of 2010, by Judgment dated 09.12.2010 and set aside the Judgment of conviction recorded by Courts below and acquit the petitioner.

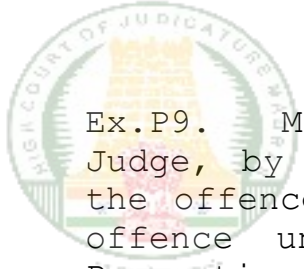
For Petitioner : Mr.M.Karunanithi

For Respondent : Mrs.S.Bharathi

Government Advocate (CrI.side)

ORDER

The petitioner is said to have caused damage to the private bus on 14.08.2009 at about 8.45 p.m., The petitioner is also said to have abused the bus crew. In this regard, the Bus Conductor-P.W.1 lodged Ex.P.1-Complaint leading to registration of Crime No.211 of 2009 on the file of the Inspector of Police, Vallam Police Station. Final report was filed against the police before the Judicial Magistrate No.II, Thanjavur. Cognizance of the offences under Sections 294(b) of IPC and Section 3 (1) of the Tamilnadu Public Property Prevention of Damage and Loss Act, 1992, was taken and committed to the Sessions Court in S.C.No.128 of 2010. The case was made over to Assistant Sessions Judge, Thanjavur. The prosecution examined seven witnesses and marked Ex.P1 to



Ex.P9. M.O.1 and M.O.2 were also marked. The learned trial Judge, by Judgment dated 09.12.2010 acquitted the petitioner for the offence under Section 294(b) of IPC and convicted him for the offence under Section 3(1) of the Tamilnadu Public Property Prevention of Damage and Loss Act, 1992. He was sentenced to five years rigorous imprisonment and levied with fine of Rs.1000/- as fine and default sentence was also imposed. Aggrieved by the same, the petitioner filed Criminal Appeal No.119 of 2010 before the Principal District and Sessions Judge (PCR), Thanjavur. By Judgment dated 05.04.2011, while the conviction was confirmed, the sentence was reduced to one year rigorous imprisonment. The fine amount was not altered. 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 petitioner submitted that having regard to the evidence on record, he would not be in a position to challenge the finding of guilt. However, he submitted that since the petitioner had already spent time in custody, the sentence of imprisonment can be reduced to the period already undergone. He drew my attention to the proviso to Section 3 of the Act, which enables the Court to impose the sentence of imprisonment for a term less than one year for any adequate and special reason to be recorded in the Judgment. In this case, the petitioner is a Tailor by profession. If he is incarcerated for a period of one year, his livelihood will be ruined. The occurrence had taken place way back on 14.08.2009. Almost, a decade had lapsed in the mean while. The damage was caused only to the Bus and no persons have suffered injury. The petitioner is ready to compensate the bus owner.

3. Taking note of all these aspects, I am of the view that the sentence of imprisonment imposed on the petitioner can be reduced and modified to the period already undergone by him. The petitioner undertakes to deposit a sum of Rs.7,000/- to the credit of S.C.No.128 of 2010 on the file of the Additional Assistant Sessions Judge, Thanjavur, within a period of four weeks from the date of receipt of a copy of this order. Upon such deposit, the same shall be disbursed to the proprietor of the bus concerned. If the petitioner fails to make the deposit as directed, the sentence imposed by the First Appellate Court would stand automatically restored.

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

Sd/-

Assistant Registrar (CS-III)

// True Copy //



1.The Additional Sessions Judge cum PCR, Thanjavur.

2.The Additional Assistant Sessions Judge, Thanjavur.

3.The Inspector of Police, Vallam Police Station,
Thanjavur District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.M.Karunanithi, Advocate in SR.72659

Cr1.R.C (MD) No.322 of 2011
02.07.2019

PBK(16.07.2019) 3P 6C