

**Bail slip**

Michale Arokia Raja @ G.M.A.Raja, S/o.Jermanappan, aged 45 years was released on bail vide order of this Court dated 20.06.2011, made in MP(MD)No.1/2011 in CrI RC(MD)No.438 of 2011.

and

The above said bail was cancelled vide order of this Court dated 17/04/2012 made in MP(MD)No.4/2011 in CrI RC(MD)No.438/2011.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.06.2019

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.R.C. (MD)No.438 of 2011

Michale Arokia Raja @ G.M.A.Raja ... Petitioner/Appellant/
Accused

Vs.

State rep by
The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul District.
(Crime No.726 of 2007)

... Respondent/Respondent/
Complainant

Prayer: Criminal Revision Case is filed under Section 397 r/w. 401 of Cr.P.C, to call for the records, hear both side and set aside the order in C.A.No.34 of 2010, dated 25.04.2011, on the file of the Fast Track Court, Dindigul, confirming the order in S.C.No. 30 of 2009, dated 13.07.2010 on the file of the Additional Assistant Sessions Court, Dindigul and acquit the petitioner.

For Petitioner : Ms.N.Shanthi Priya
For Mr.J.Gunasheelan Muthiah
For Respondent : Mrs.S.Bharathi
Government Advocate (CrI. Side)

O R D E R

The petitioner herein was married to one Gandhimary. Two children were born through their wedlock. The relationship between them came under strain. The petitioner's wife filed a petition for dissolving the marriage before the Sub Court, Dindigul. Since she filed divorce petition, the petitioner developed enmity. On 28.08.2007 at about 07.00 a.m., the petitioner went to the place of his wife and attacked her with an Aruval on her head. Fortunately, the injury caused on her turned to be a simple one. In this regard, Crime No.726 of 2007 was registered on the file of Taluk Police Station, Dindigul. Investigation was undertaken and final report was filed before the learned Judicial Magistrate No.I, Dindigul.



Cognizance of the offence under Sections 307 and 506(ii) of I.P.C. was taken and matter was committed to Sessions Court in S.C.No.30 of 2009 and made over to the file learned Additional Assistant Sessions Judge, Dindigul. The petitioner denied the charges framed against him and claimed to be tried.

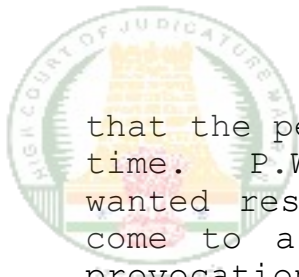
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2.The prosecution examined as many as many as 10 witnesses and marked Ex.P.1 to Ex.P.8. On the side of the accused, no evidence was adduced.

3.The Trial Magistrate by judgment dated 13.07.2010 found the petitioner guilty of the offence under Sections 307 and 506(ii) of I.P.C. and sentenced him to four years rigorous imprisonment for the offence under Section 307 of I.P.C. and levied fine of Rs.2,000/-. He was sentenced to one year rigorous imprisonment for the offence under Section 506(ii) of I.P.C. and Rs.1,000/- was levied as fine. Questioning the judgment of conviction and sentence, the petitioner filed C.A.No.34 of 2010 before Sessions Judge, Fast Track Court, Dindigul. By judgment dated 25.04.2011, the appeal filed by petitioner was dismissed and the judgment of the Trial Court was confirmed. Questioning the same, this criminal revision case has been filed.

4.When the matter was taken up for hearing, the learned counsel appearing for the petitioner submitted that he had informed his client about the listing of this case and prayed for adjournment. This case was already listed before me and the matter is coming up for the second time. Therefore, I am not inclined to adjourn the matter.

5.I carefully went through the evidence on record. The prosecution had examined Gandhimary as P.W.1. She had deposed in her evidence that she is working as teacher in a Panchayat Union School and she got married to the accused in the year 1992 and two children were born. Since the conduct of the petitioner was unbecoming of a husband, she filed divorce petition. Angered by the same, the petitioner herein had attacked her with M.O.1/Aruval. She had also spoken as to how the petitioner criminally intimidated her father. Ex.P.1/complaint was lodged by her. She identified M.O.1/Aruval, which was used for attacking her. Her testimony could not be shaken during cross examination. P.W.2 is the father-in-law of the petitioner herein and he had also corroborated the evidence of P.W.1. P.W.3 and P.W.4 are the children of the petitioner and P.W.1. They have also clearly stated that their father attacked their mother with M.O.1/Aruval. Therefore, the finding of guilt arrived by the Courts below deserves to be affirmed and sustained. I would have certainly sustained the sentence imposed on the petitioner but for one mitigating factor. Even though the petitioner attacked his erstwhile wife on the head with an Aruval, P.W.1 had not suffered any fracture in the skull. P.W.8 who examined P.W.1 had certified that the injuries suffered by P.W.1 was only simple in nature. P.W.6 is the wound certificate. Therefore, I am of the view



that the petitioner need not be sent back to prison at this point of time. P.W.1 had applied for divorce while the petitioner herein wanted restitution of conjugal rights. Therefore, this Court can come to a conclusion that he had acted under mental stress and provocation.

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6. It is also seen from the record that the marriage between P.W.1 and the petitioner was a love marriage and that P.W.1 was not having any government employment then. Therefore, even while sustaining the conviction imposed on the petitioner, this Court reduces the term of imprisonment to the period already undergone by the petitioner. However, the petitioner was levied with fine of Rs.2,000/- for the offence under Section 307 of I.P.C. The same is enhanced to Rs.10,000/-. With this modification in the matter of sentence, this criminal revision case is partly allowed. The Courts below shall take steps to enforce this order.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Judicial Magistrate No.1,
Dindigul.
2. The Chief Judicial Magistrate,
Dindigul
3. The Judge,
Fast Track Court, Dindigul
4. The Additional Assistant Sessions Court,
Dindigul.
5. The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul District.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
7. The Section Officer,
Criminal Section, 2 copies,
Madurai Bench of Madras High Court, Madurai

Cr1.R.C. (MD) No.438 of 2011
25.06.2019