

**Bail Slip**

The Appellant/Accused viz. Gurunathan, S/o.Chellaiah Thevar, Sole Accused was released on bail as per the order of this court dated 29.07.2011 in CRL RC(MD)No.600 of 2011

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C.(MD)No.600 of 2011

Gurunathan

.. Petitioner/Appellant/Accused

Vs.

State rep. by,
The Inspector of Police,
Uthumalai Police Station,
Tirunelveli District.
(Crime No.61 of 2008)

.. Respondent/Respondent/Complainant

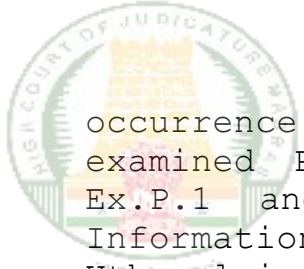
Prayer : This Criminal Revision petition is filed under Section 397 r/w 401 of Cr.P.C., to call for the records from the lower Courts and set aside the Judgment of the Appellate Court passed by the learned Additional District Sessions Judge(Fast Track Court No.I), Tirunelveli, in C.A.No.94 of 2010, dated 08.04.2011 modifying the Judgment of the learned Additional Assistant Sessions Court, Tenkasi, Tirunelveli District in S.C. No.23 of 2009, dated 19.04.2010 by allowing this Revision.

For Petitioner : No appearance.

For Respondent : Mr.A.Robinson,
Government Advocate
(Crl. Side).

ORDER

There was a love affair between the petitioner's sister and the son of P.W.1. The two are said to have eloped on 27.03.2008. Therefore, the petitioner herein developed enmity towards the family of P.W.1. As a result, on 28.03.2008 at about 11.00 a.m. the petitioner trespassed into the house of P.W.1 and attacked him with an iron rod on the head of P.W.1. P.W.1 was injured in the



occurrence and taken to hospital. P.W.12 Inspector of Police examined P.W.1 in the hospital and recorded his statement as Ex.P.1 and based on the same, he registered Ex.P.4 First Information Report in crime No.61 of 2008 on the file of the Uthumalai police station for the offence under Sections 450, 307, 323, 417 and 506(2) of I.P.C. Investigation was undertaken and final report was filed. The learned trial Magistrate took cognizance of the aforesaid offences. The case was committed to the Sessions Court and made over in S.C.No.23 of 2009 to the file of the learned Additional Assistant Sessions Judge, Tenkasi. The petitioner pleaded not guilty to the charges and claimed to be tried. The prosecution examined as many as 12 witnesses and marked the documents Ex.P.1 to Ex.P.7. M.O.1 to M.O.7 were also marked. On the side of the accused, no evidence was adduced. The learned trial Judge vide Judgment dated 19.04.2010 found the accused guilty of the offences under Sections 341, 450 and 326 of I.P.C. For the offence under Section 341 of I.P.C., he was levied with a fine of Rs.100/- and for the offence under Section 450 of I.P.C. he was sentenced to undergo three years Rigorous Imprisonment and he was also levied with a fine of Rs.500/- and for the offences under Section 326 of I.P.C., he was sentenced to undergo three years Rigorous Imprisonment and he was levied with a fine of Rs.500/-. The sentences were to run concurrently. Questioning the same, C.A.No.94 of 2010 was filed by the petitioner before the learned Additional Assistant Sessions Judge, Fast Track Court No.1, Tirunelveli. By Judgment dated 08.04.2011, the appellant Court acquitted the petitioner in respect of the offence under Section 341 of I.P.C., and confirmed the conviction and sentence in respect of the offence under Sections 450 and 326 of I.P.C. This is under challenge in this Criminal Revision.

2. Heard the learned counsel on either side.

3. This Criminal Revision was filed through a counsel, but there was no representation on his behalf. This Court is not inclined to adjourn this case. It therefore went through the evidence on record in order to dispose of the case on merits.

4. The prosecution case was that the accused had a motive to attack P.W.1 in view of the elopement of P.W.1's son with the sister of the accused. P.W.1 was injured in the occurrence and he was examined. He had spoken categorically about the attack on him by the petitioner herein. It is true that the weapon of attack was not seized. Non-seizure of the weapon of attack will not in any way vitiate the prosecution case. The Courts below have found the testimony of P.W.1 to be credible. Therefore, the Courts below have concurrently found the petitioner guilty of the offences with



5. I find no ground to interfere with the concurrent findings of the Courts below. Therefore, the conviction imposed on the petitioner stands confirmed. The petitioner has been sentenced to undergo three years Rigorous Imprisonment each for the offence under Sections 450 and 326 of I.P.C. The occurrence had taken place way back in the month of March 2008. The petitioner has not come under the adverse notice subsequently. Since his sister had run away with the son of P.W.1, the petitioner was probably under a grave provocation and in an angry state of mind. Therefore, in view of the lapse of time of more than 11 years and the fact that he has not come under the adverse notice during the intervening period, some indulgence can be shown in the matter of sentence. Therefore, this Court sets aside the sentence of imprisonment imposed on the petitioner.

6. With this modification, the Criminal Revision stands partly allowed. No costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Additional District Sessions Judge (Fast Track Court No.I),
Tirunelveli.
2. The Additional Assistant Sessions Court,
Tenkasi, Tirunelveli District.
3. The Inspector of Police, Uthumalai Police Station,
Tirunelveli District.
4. The Additional Public Prosecutor, Madurai Bench of Madras High
Court, Madurai
5. The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

pmu

Cr1. R.C. (MD) No.600 of 2011

25.06.2019