

**BAIL SLIP**

Pitchaikani, S/o.Moorthy, aged 26 years is released on bail vide court order dated.15.12.2011 and made in MP(MD)No.1/2011 in CrI.RC (MD)No.972/2011.

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.972 of 2011

Pitchaikani .. Petitioner/Appellant/Sole Accused

Vs

State represented by
The Inspector of Police,
Sivakasi East Police Station,
Virudhunagar District.
Crime No.383 of 2003

.. Respondent/Respondent/Complainant

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the conviction and sentence imposed by the Principal Sessions Court, Virudhunagar District at Srivilliputhur in C.A.No.170 of 2008, dated 30.11.2011 in modifying the conviction and sentence imposed by the Judicial Magistrate Court, Sivakasi in C.C.No.768 of 2003, dated 07.08.2008 and allow the criminal revision petition.

For Petitioner : Mr.G.Marimuthu

For Respondent : Mrs.S.Bharathi
Government Advocate (CrI.side)

ORDER

The petitioner herein had hit the victim Saroja-P.W.2 with stone and caused her injuries. This was on 29.06.2003. Hence, Crime No.383 of 2003 was registered on the file of the Inspector of Police, Sivakasi East Police Station, Virudhunagar District. Investigation was undertaken and final report was filed against the petitioner herein. The learned Judicial Magistrate, Sivakasi, took cognizance of the offences under Sections 341, 354, 294(b), 506(ii) and 326 of IPC. The petitioner denied the charge and claimed to be tried. The prosecution examined as many as nine witnesses. Ex.P1 to Ex.P5 were marked. On the side of the

accused, no evidence was adduced. The learned trial Magistrate, by Judgment dated 07.08.2008 found the accused guilty of the offences with which he was charged. He was convicted and sentenced by the trial Court as follows:-

Accused	Penal Provisions	Punishment
Sole Accused	341 IPC	To undergo simple imprisonment for one month.
	354	To undergo simple imprisonment for six months
	294 (b)	To undergo simple imprisonment for one month
	506(ii)	To undergo simple imprisonment for two years
	326 IPC	To undergo rigorous imprisonment for three years with fine of Rs.5,000/- in default, to undergo one year simple imprisonment.

Aggrieved by the same, the petitioner filed Criminal Appeal No.170 of 2008 before the learned Principal Sessions Court, Virudhunagar District, Srivilliputhur. The appellate Court partly allowed the appeal and acquitted the petitioner in respect of the offences under Sections 341, 354, 506(ii) and 326 of IPC. He was however found guilty in respect of the offences under Sections 294(b), 324 and 325 of IPC. He was sentenced by the Appellate Court as follows:-

Accused	Penal Provisions	Punishment
Sole accused	294 (b) IPC	Fine of Rs.1000, in default, to undergo one month simple imprisonment
	324 IPC	Fine of Rs.3000/-, in default, to undergo six months rigorous imprisonment



	325 IPC	To undergo imprisonment for six months rigorous imprisonment with fine of Rs.1000/-, in default, to undergo three months rigorous imprisonment.
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Aggrieved by the same, this criminal revision came to be filed.

2.When the matter was taken up for hearing, the petitioner's counsel submitted that he would not challenge the findings of guilt, having regard to the evidence on record. However, he pleaded for leniency in the matter of punishment.

3.The occurrence had taken place way back in the year 2003. More than 16 years have gone by. The petitioner appears to have spent some time in custody. The petitioner is also willing to remit a sum of Rs.5,000/- as compensation. This will be over and above the fine amount, he had already paid. Therefore, having regard to the undertaking given by the petitioner, this Court modifies the sentence of imprisonment imposed on the petitioner to the period already undergone by him. The petitioner is directed to deposit a sum of Rs.5,000/- to the credit of C.C.No.768 of 2003 on the file of the Judicial Magistrate, Sivakasi, within a period of eight weeks from the date of receipt of a copy of this order. Thereafter, the same shall be handed over to the victim concerned by the learned trial Magistrate. In the event of failure on the part of the petitioner to do so, the sentence passed by the Appellate Court will stand automatically restored. This criminal revision petition is partly allowed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Principal Sessions Court, Virudhunagar District,
Srivilliputhur.

2.The Judicial Magistrate Court, Sivakasi.



3.The Inspector of Police,
Sivakasi East Police Station,
Virudhunagar District.

Copy to :

The Section Officer,
Criminal Section (Records)
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.G.M.Law Office, Advocate in SR.72789

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02.07.2019

PBK(17.07.2019) 4P 6C