

**BAIL SLIP**

The Petitioner namely Yasar Arabath, was released on bail as per the order of this Court dated 11.03.2013 made in MP (MD) No.2/2013 in CRL RC (MD) No.211/2011.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHANCrl.R.C. (MD) No.211 of 2013

Yasar Arabath

.. Petitioner/Appellant/
Accused

Vs.

State through,
The Inspector of Police,
Cumbum North Police Station.
(Crime No.14 of 2010).. Respondent/Respondent/
Complainant

Prayer : This Criminal Revision petition is filed under Sections 397 and 401 of Cr.P.C., to call for the records relating to the Judgment of conviction and imposing sentence on the petitioner for the alleged offence under Section 304(A) of I.P.C. by the learned Judicial Magistrate, Uthamapalayam, dated 09.06.2011 made in C.C.No.149 of 2010 and confirmed in C.A. No.23 of 2011 on the file of the learned Additional District and Sessions Judge, Theni at Periyakulam, for non-appearance on behalf of the petitioner by Judgment dated 19.11.2012 and set aside the same and allow this Criminal Revision case on the file of this Court.

For Petitioner : Mr.K.Appadurai

For Respondent : M/s.S.Bharathi,
Government Advocate
(Criminal Side).**ORDER**

The petitioner was prosecuted for the offence under Section 304(A) of I.P.C., in C.C.No.149 of 2010 on the file of the learned Judicial Magistrate, Uthamapalayam. He was found guilty and sentenced to one year Rigorous Imprisonment and levied with a fine of Rs.5,000/-, in default, he was sentenced to one month Simple Imprisonment, vide Judgment dated 09.06.2011. Aggrieved by the same, he filed C.A.No.23 of 2011 before the learned Additional District and Sessions Judge, Theni at Periyakulam. When the appeal



was taken up for disposal, there was no representation on the part of the petitioner. Hence, the appellate Court dismissed the appeal for default. Challenging the same, this Criminal Revision has been filed.

2. The appellate Court ought to have appointed an Amicus Curiae to represent the petitioner or otherwise it could have perused the evidence on record and given a disposal on merits. Dismissal for non-prosecution of the criminal appeal filed against conviction and sentence is clearly not contemplated in law.

3. In this view of the matter, the Judgment passed by the appellate Court dismissing for non-prosecution is set aside. The Criminal Revision stands allowed, accordingly. The matter is remitted to the file of the appellate Court for fresh disposal in accordance with law. No costs.

Sd/-

Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Additional District and Sessions Judge,
Theni at Periyakulam.

2. The Judicial Magistrate,
Uthamapalayam.

3. The Inspector of Police,
Cumbum North Police Station.

4. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1. C.C. to M/S.K.APPADURAI, Advocate SR.No.73745

Crl. R.C.(MD)No.211 of 2013

04.07.2019

PMU

JM/04.09.2019/2P/6C