



Bail Slip

Appellant/Accused namely Nallakannu aged about 31 years
S/o.Murugan, was directed to be released on bail as per order of
this Court dated 01.04.2013 and made in MP(MD)No.3 of 2013 and
made in CrI.R.C(MD)No.308 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.R.C(MD)No.308 of 2013

Nallakannu

... Appellant/Petitioner/Accused No.2

Vs

The State represented by,
The Sub Inspector of Police,
Seevalaperi Police Station,
Tirunelveli District.
(Crime No.64 of 2009)

... Respondent/Respondent/Complainant

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the entire records pertaining to the Judgment delivered by the learned Judicial Magistrate No.3, Tirunelveli in C.C.No.225 of 2009, vide his Judgment daed 14.06.2012 which has been subsequently confirmed by the learned Additional Sessions Judge / IV Additional Sessions Court, Tirunelveli in C.A.No.44 of 2012 vide his Judgment dated 07.09.2012 and by setting aside the same.

For Petitioner : Mr.P.Samuel Gunasingh

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

ORDER

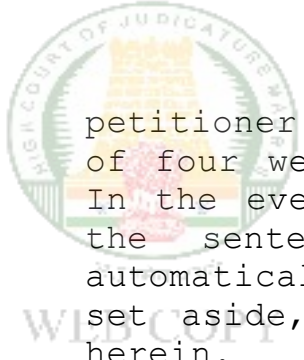
The petitioner along with another accused are said to have attacked the defacto complainant Petchiammal on 06.05.2009 at about 05.00 p.m. In this regard, Crime No.64 of 2009 was registered on the file of the Sub Inspector of Police, Seevalaperi Police Station. The Investigating Officer filed final report against the petitioner and another. The learned Judicial Magistrate No.III, Tirunelveli, took cognizance of the offences under Sections 341, 323,324, 506(ii), 452 and 427 of IPC. The petitioner denied the charges and claimed to be tried. As many as 10 witnesses were examined in support of the prosecution case. Ex.P1 to P.12 were marked. M.O.1 and M.O.2 were also marked. On the side of the accused, no evidence was adduced. The trial Magistrate, by Judgment dated 14.06.2012 convicted and sentenced

the accused in the following manner:-

Accused	Penal Provisions	Punishment
Accused No.2	341 IPC	Fine amount of Rs.300/-, in default to undergo, one week simple imprisonment
	323 IPC	To undergo simple imprisonment for one month
	452 IPC	To undergo simple imprisonment for three months with fine amount of Rs.300/-, in default to undergo one month simple imprisonment
	427 IPC	To undergo simple imprisonment for one month
	Section 4 of TNPWH Act	To undergo simple imprisonment for one year with fine of Rs.10,000/- in default, to undergo three months simple imprisonment.

The Appellate Court also confirmed the same. The petitioner herein was directed to pay a sum of Rs.10,000/- as fine. Out of the same, a sum of Rs. 9,000/- was to be paid to P.W.2-Petchiammal as compensation.

2. When the matter was taken up for hearing, the petitioner's counsel submitted that he would not question the finding of guilt and that, he would be satisfied, if leniency is shown in the matter of punishment. The occurrence had taken place more than 10 years ago. But then, on the side of the prosecution, it is submitted that the petitioner has come under adverse notice even thereafter as Crime No.47 of 2018 was registered against the petitioner for the offences under Sections 294(b), 323, 324, 506 (ii) of IPC. Therefore, I am of the view that interest of justice will be served by directing the petitioner to pay a further sum of Rs.3,000/- as compensation to Petchiammal-P.W.2. The petitioner shall also file an affidavit of apology before the learned trial Magistrate. When disbursing the compensation amount of Rs.3,000/- which will be over and above, as was already awarded by the Courts below, the learned trial Magistrate shall hand over the copy of affidavit of apology to be submitted by the



petitioner. This shall be done by the petitioner within a period of four weeks from the date of receipt of a copy of this order. In the event of failure on the part of the petitioner to do so, the sentence imposed by the Appellate Court would stand automatically restored. The sentence of imprisonment will stand set aside, if the appellant complies with the direction issued herein.

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

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Additional Sessions Judge /
IV Additional Sessions Court, Tirunelveli.

2. The Principal Sessions Judge, Tirunelveli

3. The Judicial Magistrate NO.3, Tirunelveli

4. Do Thro'
The Chief Judicial Magistrate, Tirunelveli

5. The Superintendent, Central Prison, Tirunelveli

6. The Sub Inspector of Police,
Seevalaperi Police Station,
Tirunelveli District.

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

copy to

The Section Officer-2 copies

Criminal section

Madurai Bench of Madras High Court, Madurai

Cr1.R.C (MD) No.308 of 2013
01.07.2019

KM/(17.09.2019) 3P 10C