

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM
Crl..RC.No.287 of 2020
and Crl.MP.Nos.2132 and 2133 of 2020

Kannan

... Petitioner / Accused 1

Vs.

State rep. by
The Inspector of Police,
Sankarapuram Police Station,
Villupuram District.
Crime No.121 of 2015.

... Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C, to call for the records pertaining to the judgment rendered by the III Additional Sessions Court, Villupuram at Kallakurichi in Crl.A.No.97 of 2018, dated 03.01.2020 confirming the conviction and sentence passed by the Assistant Sessions Judge at Kallakurichi in S.C.No.188 of 2015, dated 19.12.2018 and set aside the same.

For Petitioner: Mr.A.G.Rajan

For Respondent: Mr.T.Shanmugarajeswaran, GA(Crl.Side)

ORDER

This Criminal Revision Petition has been filed by the accused No.1 against the judgment passed by the III Additional Sessions Judge, Kallakurichi in Crl.A.No.97 of 2018, dated 03.01.2020 confirming the judgment of conviction and sentence passed by the Assistant Sessions Judge at Kallakurichi in S.C.No.188 of 2015, dated 19.12.2018.

2. The Trial Court has convicted the petitioner herein for the offence under Section 307 IPC and sentenced him to undergo five years Rigorous Imprisonment and also imposed a fine of Rs.2,000/- in default to undergo six months Simple Imprisonment. Further it has ordered to give set off under Section 428 of Cr.P.C, for the period already he has undergone. As against the same, the petitioner herein has filed an appeal in Crl.A.No.97 of 2018 on the file of the III Additional Sessions Judge, Kallakurichi and the same was dismissed on 03.01.2020 confirming the judgment of conviction and sentence passed by the Trial Court. Challenging the same, the accused No.1 has filed the present Criminal Revision

3. The learned counsel for the petitioner has submitted that the case of the prosecution is that on 11.03.2015 at about 11.00 p.m, the petitioner herein and his wife went to the paddy field of PW.3 and the petitioner herein has attacked the PW3 with aruval on his neck and caused serious injury and thereby attempted to commit murder. He further submitted that PW5 who is brother-in-law of PW3 has deposed in his evidence that after occurrence, the PW3 was taken to Sankarapuram Government Hospital and there the police from Sankarapuram Police Station came and obtained statement from the PW3 but no FIR has been registered based on the said complaint. On the next day PW1, wife of PW3 has lodged a typed complaint before the Sankarapuram Police Station and based on the same only the case was registered. He further submitted that PW1 has deposed in the evidence that when she was going to police station she found aruval M.O.1 at police station at that time itself. But I.O has deposed that only after registering the FIR, he went to the scene of occurrence and seized M.O.1 Aruval at the scene of occurrence. He further submitted that even though the occurrence took place during night hours at 11.00 p.m, there is no evidence that at the time of occurrence there was any light in the scene of occurrence, but without considering the aforesaid facts, the Trial Court has convicted the petitioner and also the Appellate Court has mechanically confirmed the same. He further submitted that the petitioner has already paid fine before the Trial Court. He further submitted that as per the direction of this Court the petitioner has surrendered before the trial Court on 25.02.2020 and from that date onwards, he is in custody. The petitioner is having arguable points in this Criminal Revision and he is having a chance of success in this case and therefore he prayed to suspend the sentence and release the petitioner on bail.

4. Per contra, the learned Government Advocate (Crl.Side) has submitted that the injured person (PW2) has categorically deposed before the Trial Court that it was only the petitioner who attacked him with M.O.1 Aruval. He further submitted that since the petitioner and PW3 are adjacent land owners, the identity of the petitioner cannot be disputed and taking into consideration of the aforesaid facts, the Trial Court has rightly convicted the petitioner and the same was confirmed by the Appellate Court and therefore he opposed for suspending the sentence.

5. Taking into consideration the submissions of the learned counsel for the petitioner that there are material contradictions in the evidence of the prosecution witnesses and also the fact that none of the witnesses have deposed before the Trial court that there was a light at the time of occurrence, this Court is inclined to suspend the sentence by imposing the following conditions:

(i) The petitioner shall be released on bail by executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties to the satisfaction of the Trial Court.

(ii) The petitioner shall appear before the Trial Court on the first working day of every Month until further orders. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

drl
To

1. The III Additional Sessions Judge,
Villupuram at Kallakurichi
2. The Assistant Sessions Judge
Kallakurichi.
3. The Inspector of Police,
Sankarapuram Police Station,
Villupuram District.
4. The Superintendent, Central prison, Cuddalore
5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.G.Rajan , Advocate SR.No. 21339 (11/03/2020)

Crl.RC.No.287 of 2020
and

Crl.MP.Nos.2132 and 2133 of 2020

A.SK(10/03/2020)

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