

BAIL SLIP

The Appellant/Accused namely Arul, S/o.Perumal, and Sankar, S/o.Perumal were directed to be released on bail as per order dated 30/10/2013 in CrI.Mp.No. 1/2013 in CrI.Rc.1341 of 2013 in CA.6/2009.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2020

CORAM :

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CrI. R.C. No.1341 of 2013
and
CrI.M.P.No.1638 of 2020

1.Arul
2.Sankar

.... Revision Petitioners

Vs.

State represented by
The Sub-Inspector of Police,
Nagarasampatti Police Station,
Krishnagiri District.
Cr.No. 263 of 2003

.... Respondent

Criminal Revision Case filed under Section 397 r/w. 401 Cr.P.C., against the judgment, dated 29.03.2011, passed by the Principal Sessions Judge, Krishnagiri, in C.A.No.6 of 2009, confirming the judgment of conviction and sentence, dated 29.01.2009, passed by the District Munsif-cum-Judicial Magistrate, Pochampalli, Krishnagiri District, in C.C.No.3 of 2004.

For Petitioner : Mr.L.Baskaran
For Respondent : Mr.R.Surya Prakash
Government Advocate (CrI. Side)

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O R D E R

This Criminal Revision Case has been filed against the judgment, dated 29.03.2011, passed by the Principal Sessions Judge, Krishnagiri, in C.A.No.6 of 2009, confirming the judgment of conviction and sentence, dated 29.01.2009, passed by the District Munsif-cum-Judicial Magistrate, Pochampalli, Krishnagiri District, in C.C.No.3 of 2004.

2.For the sake of convenience, the parties will be referred to by their name.

3.The prosecution case is as follows :

3.1.The accused numbering 1 to 6 and the injured witnesses are close relatives and they hail from Norukkupparai Village, Pochampalli Taluk, Krishnagiri District.

3.2.Perumal (A1) is the brother's son of Duraisamy (P.W.1). Arul (A2), Sankar (A3), and Senthil (A4) are the sons of Perumal (A1). Anandhi (A5) is the daughter of Perumal (A1). Kannammal (A6) is the wife of Perumal (A1).

3.3.There were disputes between the families of Perumal (A1) and Duraisamy (P.W.1) in connection with drawing of water from a common well.

3.4.It is alleged that, on 15.09.2003 around 07.00 a.m., Perumal (A1), Arul (A2), Sankar (A3), Senthil (A4), Anandhi (A5) and Kannammal (A6) attacked Duraisamy (P.W.1), Kannan (P.W.2), Thangavel (P.W.3), Munusamy (P.W.4), Devan (P.W.5) and Poonkodi (P.W.6) with iron pipe and knives and caused serious injuries to them.

4.In this regard, the police registered a case in Crime No.263 of 2003 and filed a final report in C.C.No.3 of 2004 before the District Munsif-cum-Judicial Magistrate, Pochampalli, against A1 to A6, for the offences under Sections 147, 148, 323, 324, 326, 336 r/w. 109 and 149 IPC. Charges for the aforesaid offences were framed against the accused and when questioned, the accused pleaded 'not guilty'.

5.To prove the case, the prosecution examined 14 witnesses and marked Exs.P1 to P11 and three Material Objects. No witness was examined nor any document marked from the side of the accused.

6.After considering the evidence on record and hearing either side, the trial Court, by judgment and order dated 29.01.2009, in C.C.No.3 of 2004, acquitted Perumal (A1), Senthil (A4), Anandhi (A5) and Kannammal (A6) of all the aforesaid offences, but convicted and sentenced Arul (A2) and Sankar (A3) as follows :

Accused	Provision under which convicted	Sentence
A2	Section 326 IPC	Six months rigorous imprisonment and fine of Rs.300/-, in default, to undergo one month rigorous imprisonment

Accused	Provision under which convicted	Sentence
A3	Section 324 IPC (2 counts)	Three months rigorous imprisonment each
	Section 326 IPC (2 counts)	Six months rigorous imprisonment each and fine of Rs.300/- each, in default, to undergo one month rigorous imprisonment

7.The appeal in C.A.No.6 of 2009 that was filed by Arul (A2) and Sankar (A3) was dismissed by the Principal Sessions Judge, Krishnagiri, on 29.03.2011.

8.Challenging the concurrent findings of the two Courts below qua the aforesaid conviction and sentence, Arul (A2) and Sankar (A3) have filed the present Criminal Revision Case before this Court, under Section 397 r/w. 401 Cr.P.C.

9.From the evidence of Dr.Ashok Kumar (P.W.14), who examined the injured, it is seen that Duraisamy (P.W.1) had sustained a fracture in his right forearm and Thangavel (P.W.3) had sustained a fracture in the metacarpal area. The X-Ray reports were marked as M.Os.2 and 3. In this case, except a pipe (M.O.1), no other weapon was recovered. Except the aforesaid two injuries, sustained by Duraisamy (P.W.1) and Thangavel (P.W.3), the rest of the injuries suffered by the victims were found to be simple in nature and were only lacerations. There was no cut injury on any of the victims. The recovery of the pipe (M.O.1) is also doubtful. There is no clear evidence as to who among the six accused had used the pipe (M.O.1). Therefore, it is little difficult to sustain the conviction of Arul (A2) and Sankar (A3) of the offences under Sections 324 and 326 IPC. But, there are materials to convict them of the offence under Section 325 IPC.

10.On 04.02.2020, this Court passed the following order :

"Today, K.Kabilan, Inspector of Police, Nagarasampatti Police Station, Barur Circle, Krishnagiri District, is present.

2.The accused in this case viz., Arul (A2) and Sankar (A3) are present. The injured victims viz., Duraiswamy (PW1), Kannan (PW2), Thangavel (PW3), Munuswamy (PW4), Devan (PW5) and Poongodi (PW6) are also present and they are identified by the Inspector of Police.

3.The parties are willing to compromise the matter and are seeking time to file a petition under Section 320 Cr.P.C. for

compounding the offence.

Post the matter on 07.02.2020 under the caption "for orders".

11.Both parties have filed a petition in CrI.M.P.No.1638 of 2020 to compound the offences, under Section 320 Cr.P.C. The occurrence in this case took place on 15.09.2003 and at that time, the offence under Section 325 IPC was compoundable under Section 320 Cr.P.C. with leave of the Court. In view of the above, the petition in CrI.M.P.No.1638 of 2020 is allowed and the offence under Section 325 IPC stands compounded.

12.In fine, this Criminal Revision Case is allowed and the conviction and sentence of Arul (A2) and Sankar (A3) qua Sections 324 and 326 IPC are set aside and the offence under Section 325 IPC is compounded. Arul (A2) and Sankar (A3) are acquitted of all the charges framed against them.

Fine amount, if any, paid by the accused, shall be refunded to them. Bail bond, if any executed by them, shall stand discharged.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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Copy to :

- 1.The Principal Sessions Judge,
Krishnagiri.
- 2.The District Munsif-cum-Judicial Magistrate,
Pochampalli,
Krishnagiri District.
- 3.The Chief Judicial Magistrate,
Krishnagiri.
- 4.The Sub-Inspector of Police,
Nagarasampatti Police Station,
Krishnagiri District.
- 5.The Public Prosecutor,
High Court, Madras.
- 6.The Deputy Registrar |with a direction to send back the
(Criminal Section), |original records, forthwith, to the
High Court, Madras. |respective Courts below

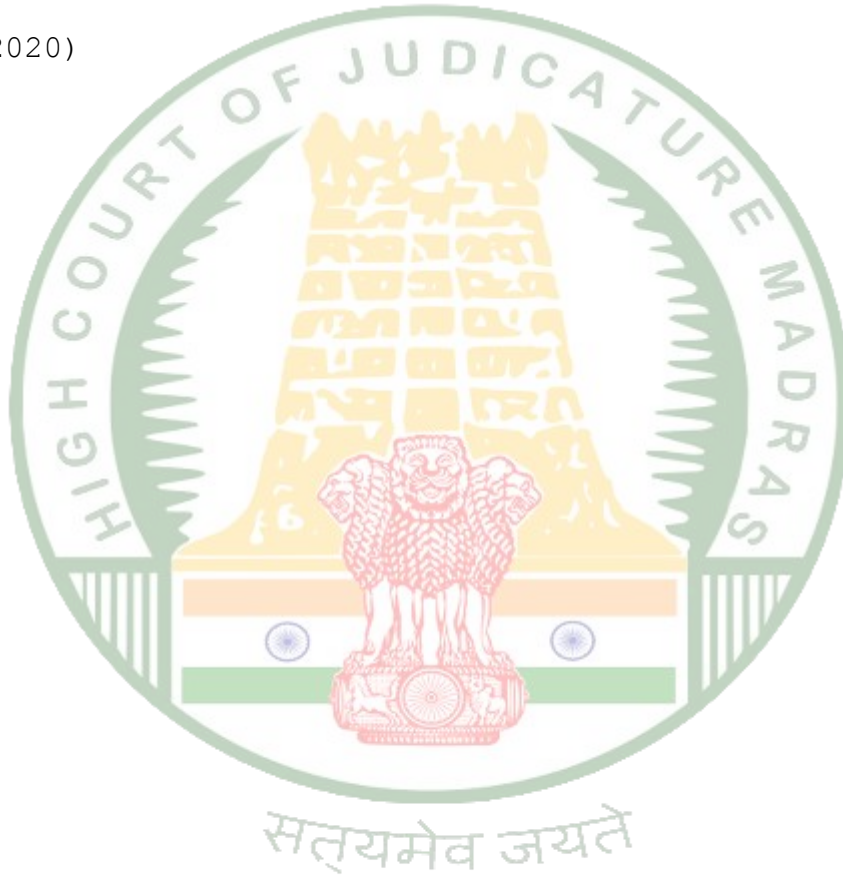
Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.T.Panchatsaram, Advocate, S.R.No.10912

Crl. R.C. No.1341 of 2013

KK(CO)
GN(13/03/2020)



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