

BAIL SLIP

The Appellant/Accused viz Mr.Sivakumar, S/o Kaliyamurthy was released on bail vide order of this court dated 31.07.2020 made in MP 1/2014 in Crl.RC No.683 of 2014.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2020

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Crl.R.C.No. 683 of 2014

Sivakumar
S/o, Kaliyamurthy
Mariamman Koil Street,
Korkadu,
Villianur,
Puducherry.

...Petitioner

-Vs-

State rep. By
The Station House Officer,
Grand Bazaar Police Station,
Puducherry.

...Respondent

Prayer:

Criminal Revision Petition filed under section 397 (1) r/w 401 of Cr.P.C to call for record in Criminal Appeal No.2 of 2013 on the file of the Principal Sessions Judge at Puducherry, against S.C.No.35 of 2011 on the file of the Assistant Sessions Judge at Puducherry confirming the conviction and sentence imposed by the Assistant Sessions Judge in S.C.No.35 of 2011 on 28.12.2012 against the petitioner/accused and setaside the same.

For Petitioner : Mr.P.Veeraraghavan

For Respondent : Mr.Bharath Chakravarthy
Public Prosecutor
Pondicherry

O R D E R

The Revision Petitioner/Accused has been convicted under section 324 IPC and sentenced to undergo Rigorous Imprisonment for six months by the Assistant Sessions Judge cum Chief Judicial Magistrate, Puducherry, by the judgment dated

28.12.2012, passed in S.C.No.35 of 2011. Impugning the conviction and sentence imposed on him as abovesated, the revision petitioner has preferred the Criminal Appeal No.2 of 2013 on the file of the Principal Sessions Judge, Puducherry. The Principal Sessions Judge, Puducherry has dismissed the abovesaid appeal preferred by the revision petitioner and thereby confirmed the conviction and sentence imposed on him by the Assistant Sessions Judge cum Chief Judicial Magistrate, Puducherry. Challenging the same, the Criminal Revision petition has been preferred.

2. Briefly stated, according to the prosecution case, the complainant Bhavani, wife of the Revision Petitioner was married to the revision petitioner and after two weeks of the marriage, she came to understand that the Revision Petitioner had already married one person and therefore she had separated from him and living alone for eight months. It is further stated that subsequent thereto, the revision petitioner has approached her parents and after offering excuse on his part, it is putforth that the complainant and the revision petitioner had been living together as husband and wife for four months. However the revision petitioner thereafter in a drunken mode, scolded and assaulted her and therefore she had instructed the revision petitioner not to come to the house and despite the same, the revision petitioner used to consume alcohol and quarreled with her and threatened her that he is going to kill her. On 29.10.2008, at about 7.40 p.m when the complainant was working in the Santhi Radios House, the revision petitioner came to the shop and threatened her with filthy language and attacked her with knife and also threatened her with dire consequences that he would kill her and on account of the attack inflicted upon the complainant by the revision petitioner, according to the complainant, she had sustained cut injuries on her neck and right thumb and hence the complaint had been preferred by her against the revision petitioner.

3. Based on the complaint lodged by the complainant, the case in Crime No.539 of 2008, under section 307 IPC had been registered against the revision petitioner and after investigation, the final report has been leveled against the revision petitioner under section 307 IPC.

4. To sustain the abovesaid charge leveled against the revision petitioner, P.Ws.1 to 8 were examined. Exs.P1 to P6 were marked. M.O.1 has also been marked. After closure of the prosecution evidence, the revision petitioner/accused was examined under section 313 Cr.P.C qua the incriminating evidence tendered against him for the prosecution witnesses and he had denied the same. According to the revision petitioner, he has not committed the offence leveled against him and the case has

been falsely foisted against him, on account of the matrimonial dispute between the complainant and the revision petitioner. On the side of the revision petitioner/accused, no witness has been examined, no document has been marked and no M.O has been marked.

5. On an appreciation of the materials placed on record, as abovenoted, the trial court has convicted and sentenced the revision petitioner under section 324 IPC. The abovesaid conviction and sentence imposed on the revision petitioner by the trial court has been upheld by the appellate court.

6. According to the prosecution case, on account of the attack inflicted on the complainant by the revision petitioner on 29.10.2008, at about 7.40 p.m at the Radio House, where she had been working, the complainant had sustained injuries and further according to the prosecution, the revision petitioner had inflicted the injuries on the complainant by threatening that he would kill her. It is further stated that the complainant had been given treatment for the injuries sustained by her by the medical officer Dr.A.Ganesan examined as P.W.6 and it is seen that the complainant had informed to the medical officer that she was assaulted with knife by the revision petitioner at her place of work and the wound certificate issued by the medical officer marked as Ex.P6 revealed the nature of the injuries sustained by the complainant in the occurrence. The complainant Bhavani has deposed clearly about the assault inflicted upon her by the revision petitioner on the date of occurrence and the injuries sustained by her due to the same. Her evidence has been amply supported by the medical evidence adduced in the matter through P.W.6 and the wound certificate marked as Ex.P.5.

7. As rightly held by the Courts below, considering the evidence of the complainant P.W.1, it is found that the revision petitioner had visited her place of work with a flower bundle to pacify her and thereby asked her to come and live with him, however inasmuch as, P.W.1 has refused to accede to the abovesaid request made by the revision petitioner and asked him to go and speak to her mother, it is found that the revision petitioner got aggravated on hearing the same and thereby assaulted the complainant with knife on her neck. Even though, there is no independent witness to speak about the occurrence, however when the complainant P.W.1 has clearly and categorically stated about the occurrence and furthermore inasmuch as, her evidence has been amply corroborated with the medical evidence adduced in the matter and following the intimation given by the doctor to the police, the police has recorded the statement of the complainant and registered a case and in such view of the matter, it is seen that the prosecution case would not get

vitiating merely on the failure to examine any independent witness qua the occurrence. Thus, as rightly held by the Courts below, the abovesaid factors would reveal that the complainant P.W.1 had sustained injuries only due to the attack inflicted upon her by the revision petitioner and therefore considering the facts and circumstances of the case, as rightly held by the Courts below, inasmuch as, the prosecution has not established the ingredients of section 307 IPC., however, from the evidence of P.W.1 and the medical evidence, when it is brought home that the complainant P.W.1 had sustained injuries due to the attack inflicted upon her by the revision petitioner, in such view of the matter, as rightly concluded by the Courts below, the charge under section 324 IPC has been made out against the revision petitioner and therefore the Courts below are found to be justified in convicting the revision petitioner under section 324 IPC.

8. In the light of the abovesaid factors, I do not find any valid ground to interfere with the conviction of the revision petitioner by the Courts below under section 324 IPC and resultantly the conviction of the revision petitioner under section 324 IPC is sustained.

9. The Courts below had sentenced the revision petitioner to undergo Rigorous Imprisonment for six months under section 324 IPC. Considering the facts and circumstances of the case, when it is found that the complainant is the wife of the revision petitioner and the revision petitioner had approached the complainant for seeking her reunion with him one way or the other, however proceeded to attack her and caused injuries on her and furthermore, as it is represented that the revision petitioner had already undergone imprisonment for 76 days, pointing to the abovesaid facts, the counsel for the revision petitioner prayed that the Court may alter the sentence imposed on the revision petitioner and instead sentence him to the period of imprisonment already undergone by him under section 324 IPC.

10. Considering the facts and circumstances of the case, particularly the relationship between the revision petitioner and the complainant, they being the husband and wife and living separately on account of certain misunderstanding between them and the nature of the occurrence in toto and the period of sentence already undergone by the revision petitioner, in all, the interest of justice would be served, if the sentence of rigorous imprisonment of six months imposed on the revision petitioner is altered to the period of imprisonment already undergone by him.

11. In the light of the abovesaid discussions, the conviction of the revision petitioner under section 324 IPC as determined by the Courts below is maintained, however the sentence imposed on him by the Courts below to undergo rigorous imprisonment for six months is altered and instead, the revision petitioner is sentenced to the period of imprisonment already undergone by him for the offence under section 324 IPC.

12. Accordingly, the Criminal Revision Petition is disposed of.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mfa

To

- 1.The Principal Sessions Judge at Puducherry
- 2.The Assistant Sessions Judge at Puducherry
- 3.The Superintendent, Central Prison,
Kalapet, Puducherry.
- 4.The Section House Officer,
Grand Bazaar Police Station,
Puducherry.
- 5.The Public Prosecutor,
High Court, Madras.

Copy to

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

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Cr1.R.C.No.683 of 2014

SSV(CO)
KKV/01/09/2020