



Bail Slip

The Appellant/Accused was directed to be released on bail made in
Crl.MP(MD)No.01/2010 in Crl.Appeal.(MD)No.259 of 2010 dated
29.07.2010 on the file of the Madurai Bench of Madras High Court.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.A.(MD)No.259 of 2010

Seeniraj @ Seeni

... Appellant/Accused

Vs

The State of Tamil Nadu,
Represented by
The Deputy Superintendent of Police,
(Crime No.14 of 2008)
Chinnakovilankulam Police Station,
Sankarankoil,
Tirunelveli District.

... Respondent/Complainant

PRAYER: Criminal Appeal is filed under Section 374 of Cr.P.C., to
set aside the order of conviction dated 07.07.2010 in S.C.No.51 of
2009 on the file of the learned II Additional Sessions Judge,
Tirunelveli and acquit the appellant.

For Appellant : Mr.V.Sasikumar

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

JUDGMENT

The appellant was convicted for the offence under Section 3
(1)(X) of SC/ST (POA) Act, vide Judgment dated 07.07.2010 in
S.C.No.51 of 2009 on the file of the Second Additional Sessions
Judge, Tirunelveli and was sentenced to undergo six months
rigorous imprisonment. He was also directed to pay a fine of
Rs.1,000/-. Questioning the same, this appeal has been filed.

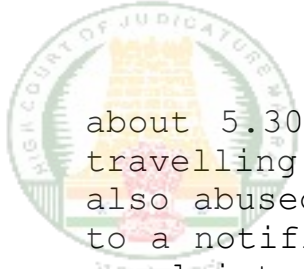
2.The learned counsel appearing for the appellant
reiterated the contentions set out in the grounds of appeal and
wanted this Court to reverse the impugned Judgment.

3.Per contra, the learned Government Advocate (Crl.side)
submitted that the impugned Judgment does not warrant any
interference.

4. I carefully considered the rival contentions and perused
the evidence on record.

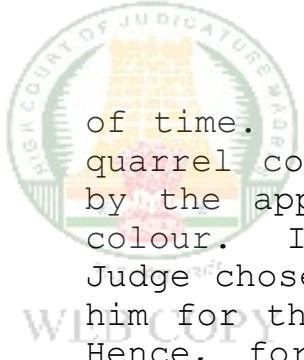
<https://hcservices.ecourts.gov.in/hcservices/>

5.The case of the prosecution is that on 09.08.2008, at



about 5.30 pm., when the appellant and the victim-Mariappan were travelling in the same bus, the appellant attacked the victim and also abused him by referring to his community. The victim belongs to a notified scheduled caste. In this regard, P.W.1 lodged Ex.P1 complaint on the same day before the Chinnakovilankulam Police Station, Sankarankoil. Based on the same, Ex.P6-F.I.R was registered for the offences under Sections 294(b), 323, 355 and 506(2) of IPC and also under Section 3(1)(X) of the SC/ST (POA) Act. The Deputy Superintendent of Police took up the investigation and after recording the statements of the victim and other witness and after completing the usual formalities, filed final report before the learned Judicial Magistrate, Sankarankovil. The same was committed to the III Additional Sessions Judge, Tirunelveli in S.C.No.51 of 2009. The appellant pleaded not guilty to the charge and claimed to be tried. The prosecution examined as many as nine witnesses and marked Ex.P1 to Ex.P8. On the side of the accused, no evidence was adduced. The learned trial Judge, acquitted the appellant of the offences under Sections 355, 323 and 506(ii) of IPC. However, he was found guilty in respect of the offence under Section 3(1)(X) of the SC/ST (POA) Act. Challenging the same, this appeal has been filed.

6.It is not in dispute that the occurrence took place in a public transport bus. In support of the charge, the prosecution examined P.W.1 to P.W.3. P.W.1 is the victim. P.W.2 is his own brother. P.W.3 is the Conductor of the bus in question. While P.W.1 and P.W.2 supported the prosecution case. P.W.3-the Conductor turned hostile. According to P.W.1, the bus was going from Sankarankovil to Senthatti. But according to P.W.2, the bus was going from Senthatti to Sankarankovil. Thus, the very route direction of the bus itself is in doubt. P.W.1 and P.W.2 who are the brothers, have given contradictory testimony in this regard. According to P.W.1, when the appellant picked up quarrel with him and attacked him, his brother and brother-in-law, came to his support and tried to separate that two. P.W.2 frankly states that he did not try to separate. It was the bus was too crowded. As already pointed out, the only independent witness examined by the prosecution did not support the prosecution. Even according to the defacto complainant, there were about 42 to 50 persons inside the bus. Therefore, I find it very difficult to believe that the appellant would have abused the victim by referring to his caste. In any event, when there were as many as 40 persons inside the bus, it would be most unsafe to convict the appellant solely on the strength of P.W.1. It could not have been difficult for the prosecution to have secured the testimony of independent witnesses. The only independent witness namely the Conductor who was examined, did not support the charge. A
<https://hcmjrecords.in/login> ~~has been put~~ that the victim had eve-teased some girls and that this led to quarrel. This appears to be quite possible. The appellant was also a college student during the relevant point



of time. P.W.1 is also of the same age. Therefore, some petty quarrel could have erupted on account of the suggestion put forth by the appellant. This probably has been given a communal colour. It is also relevant to note here that the learned trial Judge chose to give benefit of doubt to the accused and acquitted him for the offences under Sections 355, 323 and 506(ii) of IPC. Hence, for these reasons, I am of the view that the impugned Judgment deserves to be set aside. This criminal appeal stands allowed. The appellant is acquitted. The fine amount, if any, paid by him shall be refunded forthwith. The bail bond, if any, executed by the appellant shall stand cancelled.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

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To

- 1.The Principal Sessions Judge, Tirunelveli
- 2.The II Additional Sessions Judge, Tirunelveli.
- 3.The Judicial Magistrate, Sankarankovil
- 4.Do Thro' The Chief Judicial Magistrate, Tirunelveli
- 5.The Deputy Superintendent of Police,
Chinnakovilankulam Police Station,
Sankarankoil,
Tirunelveli District.
- 6.The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai

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The Section Officer, -2 copies
Criminal Section,
Madurai Bench of Madras High Court, Madurai

Cr1.A. (MD) No.259 of 2010
08.07.2019

KM/ (17.09.2019) 3P 9C