



BAIL SLIP

The Petitioners namely 1)Udhaya Ponraja(A1) and 2)Udhaya Nateshraja(A2) were released on bail as per order of this Hon'ble Court dated 26.04.2016 and made in Crl.MP(MD)No.3604/2016 in Crl.RC(MD)No.272 of 2016 on the file of this Court.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl. R.C. (MD)No.272 of 2016

1. Udhaya Ponraja
2. Udhaya Nateshraja

.. Petitioners/Appellants/
Accused Nos.1 & 2

Vs.

The State rep. By,
The Sub Inspector of Police,
Koodankulam police station,
Tirunelveli District.
(Crime No.88 of 2008)

.. Respondent/Respondent/
Complainant

Prayer : This Criminal Revision is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the entire records pertaining to the Judgment passed by the learned III Additional District and Sessions Judge, Tirunelveli District in C.A.No.56 of 2013 dated 25.02.2016 whereby confirming the Judgment passed by the learned Judicial Magistrate, Valliyoor, Tirunelveli District in C.C.No.445 of 2008 dated 27.08.2013 and set aside the same in so far as the petitioners are concerned and consequently acquit the petitioners honourably.

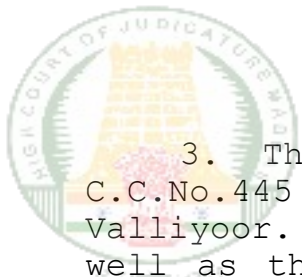
For Petitioner : Mr.A.Kesavan

For Respondent : Mr.A.Robinson,
Government Advocate(Crl. Side).

ORDER

Heard the learned counsel on either side.

2. This criminal revision case is directed against the Judgment dated 25.02.2016 in C.A.No.56 of 2013 on the file of the III Additional District and Sessions Judge, Tirunelveli District.



3. The appeal was directed against the Judgment made in C.C.No.445 of 2008 on the file of the Judicial Magistrate, Valliyoor. Before the trial Magistrate, the revision petitioners as well as their brother Udhayaraja and father Thangappa Nadar faced the trial. The learned trial Magistrate convicted the accused and sentenced them as follows:-

S. No.	Rank of the accused	Offence u/s.	Punishment
1.	Accused No.1	325 of I.P.C.	To undergo 1 year R.I and to pay a fine of Rs.1,000/- and in default, to undergo 1 month S.I.
		341 of I.P.C.	To undergo 1 month S.I.
2.	Accused No.2	326 of I.P.C.	To undergo 2 years R.I. and to pay a fine of Rs.2,000/- and in default, to undergo 2 months S.I.
		341 of I.P.C.	To undergo 1 month S.I.

The sentences were ordered to run concurrently.

4. However the appellate Court acquitted accused Nos.3 and 4 and convicted and sentenced the revision petitioners alone, as follows:-

S. No.	Rank of the accused	Offence u/s.	Punishment
1.	Accused No.1	325 of I.P.C.	To undergo 1 year R.I and to pay a fine of Rs.1,000/- and in default, to undergo 1 month S.I.
2.	Accused No.2	326 of I.P.C.	To undergo 2 years R.I. and to pay a fine of Rs.2,000/- and in default, to undergo 2 months S.I.

5. The learned counsel appearing for the revision petitioners at the very outset submitted that he would not challenge the finding of guilt as far as the second petitioner Udhaya Nateshraj is concerned and that he would only seek for modification of sentence as far as he is concerned. He wanted to confine his submissions for acquittal only as far as the first petitioner is concerned.

6. The learned Government Advocate(Crl. Side) submitted that the impugned Judgment do not call for any interference and wanted this Court to dismiss the revision case in *toto*.



7. I carefully considered the rival contentions and went through the evidence on record.

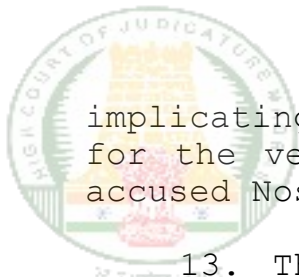
8. The petitioners resided in Koodankulam Village. Their house was demolished when the Highways Department embarked on removal of encroachments on 29.05.2008. The victim/Perumal Nadar who was running a tea shop in the vicinity was said to have given a complaint to the Highways Department complaining about the encroachments. This is said to be the motive for the occurrence. According to P.W.1 Perumal Nadar, the accused attacked him at around 7.00 p.m. on 29.05.2008 and in the said occurrence, he had suffered certain serious injuries. The second petitioner Udhaya Natesh Raja had hacked on his head. The first petitioner is said to have hit him with a stick while the other two accused had used their bare hands and limbs for attacking P.W.1. Since accused Nos.3 and 4 had already been acquitted by the trial Court, the case against them need not be considered by this Court.

9. The learned counsel appearing for the petitioners on instructions states that he would not challenge the finding of guilt as far as the second petitioner is concerned and that leaves us with the first petitioner Udhaya Ponraja alone. The learned counsel appearing for the petitioners would point out that the reasons which impelled the appellate Court to acquit accused Nos.3 and 4 are holding good for acquitting the first petitioner also.

10. It is true that there was prior motive between the two families. The accused family had lost their house, when the encroachments were removed by the Highways Department. It is not in dispute that the encroachment removal had taken place at the instance of P.W.1 and hence there was ill-feeling between the family of P.W.1 on the one hand and the family of the accused on the other. It is not in dispute that Perumal Nadar had suffered grievous injuries at the hands of the second petitioner. In order to wreck vengeance of the family of the accused, Perumal Nadar had implicated all the members of the accused family. Thangappa Nadar and all the three sons of Thangappa Nadar were implicated in the criminal case. The learned counsel would draw my attention to the fact that in the First Information Report, it has also been alleged that Jayamani, the mother of the revision petitioners herein had also been implicated. This shows the intention of P.W.1.

11. I find considerable force in the said submission made by the learned counsel appearing for the petitioners.

12. It has also been brought out in the cross examination that when the police visited P.W.1 in the hospital, he was unconscious. However, he would claim that he went to the police station and lodged the complaint and then only, he went to the hospital. This is highly improbable. Therefore, I hold that the complaint had been



implicating all the family members of Thangappa Nadar. Therefore, for the very same reasons which led the appellate Court to acquit accused Nos.3 and 4, I acquit the first petitioner also.

13. The learned counsel appearing for the petitioners states that the occurrence took place in the year 2008. More than 12 years have elapsed. The second petitioner is willing to deposit a sum of Rs.20,000/- to the credit of C.C.No.445 of 2008 on the file of the Judicial Magistrate, Valliyoor.

14. Recording the said submission, even while confirming the conviction imposed on the second petitioner, the sentence imposed on the second petitioner is modified and reduced from two years Rigorous Imprisonment to two months Simple Imprisonment. The second petitioner is directed to deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) to the credit of C.C.No.445 of 2008 on the file of the Judicial Magistrate, Valliyoor, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the deposit amount shall be handed over by the Court below to P.W.1 as token compensation.

15. With this modification in the matter of sentence against the second petitioner herein and acquitting the first petitioner, this criminal revision case is partly allowed.

Sd/
Assistant Registrar(CS-I)

/True copy/

/ /2021
Sub Assistant Registrar(CS-)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The III Additional District and Sessions Judge,
Tirunelveli District.
- 2.Do through the Principal District Judge,
Tirunelveli.
- 3.The Judicial Magistrate,
Valliyoor, Tirunelveli District.
- 4.The Chief Judicial Magistrate,
Tirunelveli District.



5.The Sub Inspector of Police Station,
Koodankulam Police Station,
Tirunelveli District.

6.The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

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

Crl. R.C. (MD) No.272 of 2016
23.12.2020

pmu

PK/04.02.2021 : 5P/8C