



BAIL SLIP

The Appellant/Accused namely Ramesh. S/o Govindaraj was directed to be released. On bail as per order on this Court dated 30/09/2015 Made in MP No.1 of 2015 in Crp Rc No.1043 of 2015 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Reserved on : 27.10.2021)

(Pronounced on : 02.11.2021)

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.1043 of 2015

Ramesh ... Petitioner/2nd Accused
.. Vs ..

State represented by
The Sub Inspector of Police,
Anaikkaranchathram Police Station,
Nagapattinam District
Crime No.638 of 2009 ... Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w. 401 of Cr.P.C., to set aside the judgment dated 15.07.2015 made in Crl.A.No.38 of 2014 on the file of the District and Sessions Judge, Nagapattinam, in confirming the judgment dated 16.07.2014 made in C.C.No.115 of 2010 on the file of the Judicial Magistrate Court, Sirkali.

For petitioner : Mr.C.Prabakaran

For Respondent : Mr.R.Vinoth Kumar,
Government Advocate (Crl.Side)

O R D E R

The convicted A2 is the revision petitioner herein.

2. This criminal revision petition is filed against the judgment dated 15.07.2015 made in Crl.A.No.38 of 2014 on the file of the District and Sessions Judge, Nagapattinam, confirming the judgment dated 16.07.2014 made in C.C.No.115 of 2010, on the file of the Judicial Magistrate Court, Sirkali.



3. The respondent-police filed a charge sheet in C.C.No.115 of 2010 alleging that on 22.11.2009 night at about 10.00 p.m., while the defacto-complainant Gunasekaran was standing in front of the house of Jothi, West street, Athiyur village, A1 Mohandoss and A2 Ramesh came there and uttered obscene words against Gunasekaran and assaulted him with "Kattai Kazhi" on his back and shoulder and caused grievous injury. Hence, a criminal case in Crime No.638 of 2009 was filed as against this appellant/accused.

4. On the side of the prosecution, P.W.1 to P.W.7 examined and Exs.P1 to P5 documents were marked and M.O.1 was marked and on the side of the defence, no oral and documentary evidence was adduced on his side. No material object was produced on the side of the prosecution.

5. The trial Court convicted A2 only under Section 325 of I.P.C and acquitted for Section 294 (b) I.P.C and acquitted Mohanraj on both the charges. Hence, in respect of the conviction under Section 325 of I.P.C., the convicted second accused preferred the Crl.A.38/2014 which was dismissed and sentence was confirmed. Hence, the revision.

6. The learned counsel for the revision petitioner contended that in Ex.P3, it was mentioned that P.W.1 informed the Doctor that there were about 3 persons who came and assault him with wooden logs and sickle and the same was entered thereon. But the deposition of P.W.1 reveals otherwise.

7. P.W.1 is the injured witness and also an eye witness. P.W.2 is an occurrence witness and P.W.4 was present at the time of the occurrence and at the place of the occurrence. The evidence of P.W.1 relates to the assault by the appellant/accused with "Katta kazhi" on a shoulder.

8. It is a specific evidence which is duly corroborated by the P.W.s 2 & 4 occurrence witnesses and P.W.s 5 & 6 who are the Doctors who found injury on the left shoulder of P.W.1.

9. In view of the specific evidence of P.W.1 that on that night at about 9.00 P.M, the accused came to his house and Ramesh/revision petitioner attacked him with "Katta kazhi" on the left shoulder. So is the evidence of P.W.2. P.W.5 Doctor Prabhakar has specifically deposed that on reference from the Government Doctor, he deposed that the left shoulder joint was dislocated and taken the X-Ray was marked under M.O.1 and in Ex.P2 Wound Certificate, the injury is stated to be grievous. The relevant portion of Ex.P2 reads as follows:-



"Diagnosis:- Acute (L) shoulder dislocation (anterior)

Treatment:-Closed reduction under GA on 23.11.2009.

Strapping done post operatively

Nature of injury:Grievous"

10. Thus, the accused has attacked P.W.1 on his left shoulder with the "Katta kazhi" (wooden log) and it was witnessed by P.W.2 and P.W.4 and he caused injuries on the shoulder of P.W.1. The Doctor who had given the treatment to P.W.1, deposed that he has found injury on the left shoulder and further that he has classified the injury as grievous and based upon in M.O.1- X-Ray.

11. Thus, this Court finds that due to the act of the accused on the body of P.W.1, he has sustained grievance injury. Though an attempt has been made by the revision petitioner that as per the version of the Doctor, one more person is involved in the accident which will not vitiate the act of the accused on the body of P.W.1. With regard to the injuries sustained by P.W.1 on the left shoulder resulting in dislocation. The evidence of P.W.1 coupled with the independent witness of P.W.2 and P.W.4 along with the medical evidence of P.W.5 and P.W.6, coupled with the wound certificate/Ex.P2, both the Courts below have rightly come to the conclusion that the charge under Section 325 I.P.C was proved beyond reasonable doubt. Such a finding by the Courts below does not suffer from any illegality or irregularity warranting interference by this Court.

12. On the point of quantum of sentence, both the parties are heard.

13. Taking note of the social background of the parties and the financial capacity of the parties and the nature of the injuries and the instrument used, the sentence is reduced from two years to six months Simple Imprisonment and fine awarded by the trial Court as confirmed by the appellate Court, is hereby kept in tact.

14. Accordingly,

(i) This Criminal Revision Petition is partly allowed to the limited extent of reducing the sentence from two years to six months Simple Imprisonment.

(ii) The conviction passed by the Courts below is confirmed and sentence is modified as above. Since the petitioner/A2 is on bail, the trial Court is directed to take steps to secure his custody to undergo the remaining period of sentence if any.



(iii) The sentence of imprisonment already undergone by him shall be set off under Section 428 Cr.P.C.

WEB COPY

Sd/-
Assistant Registrar (CS II)

//True Copy//

Sub Assistant Registrar

nvi

To

1. The District and Sessions Judge, Nagapattinam
- 2.-do thro The Principal District and Sessions Judge,
Nagapattinam
3. The Judicial Magistrate Court, Sirkali.
4. -do thro The Chief Judicial Magistrate , Sirkali.
5. The Sub Inspector of Police,
Anaikkaranchathram Police Station,
Nagapattinam District
6. The Public Prosecutor,
High Court of Madras,
Madras.

Copy to:-

7. The Section Officer,
Criminal Section,
High Court, Madras-104.

Cr1.R.C.No.1043 of 2015

VSN-II (CO)
CT 13/12/2021