



Bail Slip

The Petitioner namely Maniaraj (Accused in CrI.A.No.40 of 2014 on the file of III Additional District Judge, Salem) was released on bail vide order of this Court dated 30/04/2015 and made in M.P.No.1 of 2015.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.435 of 2015

Maniaraj

... Petitioner

Versus

State Represented by
The Sub-Inspector of Police,
Sangagiri Police Station,
Salem District.
(Crime No.351 of 2010)

... Respondent

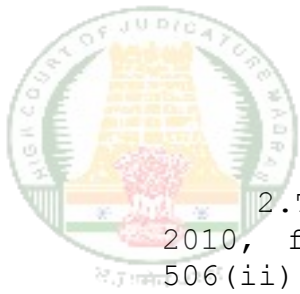
Criminal Revision Case filed under Sections 397 read with Section 401 of Criminal Procedure Code, to set aside the order of conviction dated 07.04.2015 made in C.A.No.40 of 2014, on the file of the III Additional District Judge, Salem, confirming the order of conviction dated 28.02.2014 made in S.C.No.168 of 2012 on the file of the Assistant Sessions Judge, Sangagiri, Salem District, and to acquit the accused.

For Petitioner : Mr.S.Agilesh Kumar

For Respondent : Mr.S.Sugendran,
Government Advocate (CrI.Side)

O R D E R

This Criminal Revision Case has been filed against Judgment of conviction and sentence dated 28.02.2014, passed by the learned Assistant Sessions Judge, Sangagiri in S.C.No.168 of 2012, which was confirmed by the III Additional District Judge, Salem, in the judgment dated 07.04.2015 made in C.A.No.40 of 2014.



2.The respondent/police registered a case in Crime No.351 of 2010, for the offences punishable under Sections 294(b), 307, 506(ii) of IPC., against the petitioner herein. After completion of investigation, the respondent/police laid a charge sheet before the learned Judicial Magistrate No.1, Sangagiri and the same was taken on file in P.R.C.No.5 of 2011. Thereafter, the case was committed to the learned District & Sessions Judge, Salem, where the case was taken on file in S.C.No.168 of 2012 and the same was made over to the learned Assistant Sessions Judge, Sangagiri, for disposal.

3.The Trial Court, after trial, convicted the petitioner herein, for the offence under Section 324 of IPC. and sentenced to undergo two years rigorous imprisonment and for the offence under Section 506(ii) of IPC., to undergo three years rigorous imprisonment. However, both the sentences were ordered to run concurrently and the period already undergone was ordered to be given set off as per Section 428 of Cr.P.C.

4.Challenging the trial court's Judgment of conviction and sentence, the petitioner filed an appeal before the Principal District & Sessions Court, Salem. The Principal Sessions Judge taken the appeal on the file in C.A.No.40 of 2014 and made it over to the III-Additional District & Sessions Judge for disposal. After analysing the entire materials on record, the learned III-Additional District & Sessions Judge, confirmed the Judgment of conviction and sentence imposed by the Trial Court.

5.Now, challenging the Judgment of the Appellate Court, confirming the conviction and sentence imposed on him, the petitioner has preferred the present revision case, before this court.

6.The learned counsel for the revision petitioner would submit that all the witnesses are interested witnesses and related witnesses. There was a delay in filing the First Information Report as well as a delay in sending the same to the court, which is fatal to the case of the prosecution. There are contradictions between the evidence of P.W.1/injured witness regarding injuries and the injuries sustained by him. P.W.2 has stated that petitioner/accused had inflicted three cut injuries with Machete (Aruval) on his left shoulder, but the medical evidence shows that the victim sustained two cut injuries, which is a material contradiction and it goes to the root of the case of the prosecution. Further, the Investigation Officer has not recovered the bloodstain clothes for sending the same to the



forensic laboratory, to identify whether the blood in the clothes matches with the blood of the de-facto complainant or not. Further, he submits that the forensic report regarding the weapons is misconceived. The prosecution failed to prove that the petitioner/accused has committed the charged offences. Hence, the prosecution failed to prove its case beyond all reasonable doubt. Therefore, it is necessary that the benefit of doubt should have been extended to the petitioner. There are many contradictions and all the witnesses are interested witnesses. Due to previous enmity and personal motive between the appellant and P.W.1/victim, a false case has been foisted against the petitioner by PW.1/victim before the respondent/police. The police and the prosecution have not conducted fair investigation. The Trial Court has also failed to appreciate the evidence and did not conduct a fair trial and wrongly convicted the petitioner, without any material evidence. The appellate Court has also failed to re-appreciate the entire evidence properly. There is perversity in re-appreciating the evidence, and it warrants interference of this Court and the conviction and sentence passed by the Courts below are liable to be set aside.

7.The learned Government Advocate (crl.side) appearing for the respondent/police would submit that PW.1 has clearly spoken about the occurrence. P.W.2 is the eyewitness. P.W.9 is the doctor, who examined P.W.1/victim and prepared the Accident register, wherein, PW.1 has clearly stated that a known person attacked him, which was marked as Ex.P6. P.W.10 is a Government Doctor, who reported about the two cut injuries and sutures performed to P.W.1, in which also he stated that a known person attacked him with a machete. From the evidence of P.W.1, P.W.9 and P.W.10, it is clear that the victim/P.W.1 sustained cut injuries with machete, by the petitioner. While the petitioner attempted to attack P.W.1, he turned aside. Therefore, the machete fell on his left shoulder, otherwise, it might have fallen on his head. Considering the facts and circumstances of the case, the evidence of P.W.1/injured witness, P.W.9 & P.W.10/Doctors' evidence, and Wound Certificate/Ex.P7, it shows that there is no fracture injury. Though he suffered the simple injury, the petitioner used a deadly weapon viz., Machete. The Trial Court rightly convicted the petitioner, for the offence under Section 324 of IPC., and Section 506(ii) of IPC., (2 counts). There is no perversity in the judgment of the Trial Court and the appellate Court also rightly re-appreciated the entire evidence and confirmed the judgement of conviction and sentence passed by the trial Court. Therefore, the revision is liable to be dismissed.



8. Heard the learned counsel for the petitioner and the learned Government Advocate (crl.side) appearing for the respondent and also perused the materials available on record.

9. This Court, while exercising revisional jurisdiction, cannot exercise power of the Appellate Court and this Court, being a revisional Court, cannot sit in the armchair of Appellate Court and re-assess the evidence and substitute its views on findings of fact.

10. The case of the prosecution is that the petitioner is an adjacent landowner of P.W.1/victim. Due to the dispute of watering the land, P.W.1 and P.W.2 went to their land. At that time, the petitioner made a wordy quarrel with them, and thereafter, left from that place. After some time, the petitioner came back with Machete and attacked P.W.1., due to which, P.W.1 sustained cut injuries. On the same day itself, P.W.1 was admitted in the hospital and he gave a complaint before the respondent/police.

11. It is seen that initially the case was registered against the petitioner under Section 294(b), 307, 506(ii) of IPC., P.W.1 has very clearly stated about the petitioner's attempt to attack with a machete, on his head, but he turned aside, and therefore, he received a cut on his left shoulder, and sustained two cut injuries. All are simple in nature, however, the petitioner used a deadly weapon for causing injuries to P.W.1 & chosen the vital part of the victim. P.W.1 was admitted on the same day in the hospital at 4.30 p.m., P.W.9/Doctor recorded the statement of P.W.1 and made entries in the Accident register to the effect that a known person assaulted him with a machete. P.W.9, who gave the first aid treatment to P.W.1, due to the non-availability of sufficient facilities in that hospital, referred P.W.1 to the Government Hospital, Erode, where P.W.10/Doctor examined and gave the report that P.W.1 sustained two cut injuries for which sutures were made on his left shoulder, though it is simple in nature. Further, X-ray was taken, which reveals that there was no fracture. From the evidence of the P.W.1/ injured witness, medical evidence of P.W.9 & P.W.10/Doctors, Wound certificate/Ex.P.7, the prosecution has proved its case beyond all reasonable doubt.

12. Though the petitioner pointed out certain contradictions, no doubt the contradictions are not fatal to the case of the prosecution, since they are not material contradictions. Since



the injured and the accused are known to each other and there are previous motives between them, the accused/petitioner attacked P.W.1/victim, thereby P.W.1 sustained injuries. It is clear that P.W.1/injured witness has identified the accused and made a complaint on the same day itself. Further, P.W.1 was admitted to the hospital on the same day, on that day itself, P.W.9/Doctor has recorded the victim's statement in the Accident Register, in which, P.W.1 has clearly narrated that a known person attacked him. Therefore, on a combined reading of evidence of P.W.1, P.W.9, P.W.10, medical evidence, and the wound certificate, it is very clear that the accused has caused the injuries to P.W.1. Therefore, considering the injuries sustained by the P.W.1, the Trial Court convicted and sentenced the petitioner to undergo two years rigorous imprisonment for the offence under Section 324 of IPC and three years rigorous imprisonment for the offence under Section 506(ii) of IPC.

13.The revision court cannot substitute its own reasons and its views on findings of fact recorded by both the courts below, unless there is perversity in appreciation of evidence by both the courts below, the Revisional Court normally will not interfere with the findings of the Courts below. Therefore, under these circumstances, this Court does not find any merit in the revision and there is no compelling circumstances to interfere with the findings of the Courts below.

14.In the result, the Criminal Revision Case is dismissed by confirming the Judgment of conviction and sentence passed by the Courts below.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

pbl/klt
To

- 1.The Principal District and Sessions Judge,
Salem.
- 2.The III Additional District Judge,
Salem.



WEB COPY

3.The Assistant Sessions Judge,
Sangagiri, Salem District.

4.The Sub-Inspector of Police,
Sangagiri Police Station,
Salem District.

5.The Public Prosecutor,
High Court of Madras.

Copy to

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

+1cc to M/s.Aruna Elango, Advocate Sr.50575

Cr1.R.C.No.435 of 2015

gj[col]
srg 21/03/2022