



WEB COPY

Bail Slip

The Appellants/Accused Nos. 1 & 2 viz., 1.Senthilkumar S/o.Kulandai Velayutham, Male aged 29 Years and 2. Bala Murugesan, S/o.Kulandai Velayutham, M/A-24 Years) were directed to be released on bail as per order of this Court dated 26.04.2016 made in CrI.M.P.4899/2016 in CrI.R.C.No.688/2016.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2021

CORAM:

THE HON'BLE Ms.JUSTICE R.N.MANJULA

CrI.R.C.No.688 of 2016

1.Senthilkumar
2.Bala Murugesan ... Petitioners/Accused 1 & 2
Vs.

State rep. by Inspector of Police,
K.G.Chavadi Police Station,
Coimbatore District.
(Crime No.1539/2011) ... Respondent/Complainant

Criminal Revision filed under Sections 397 and 401 Cr.P.C praying to set aside the Modifying the order of the learned III Additional District and Sessions Judge at Coimbatore made in C.A.No.33 of 2014 dated 18.12.2015 confirming the conviction and sentence passed by the Learned Judicial Magistrate No.VII, Coimbatore made in C.C.No.507 of 2012 dated 17.02.2014.

For Petitioner : Mr.J.Franklin
For Respondent : Mr.A.Gopinath
Government Advocate (CrI.Side)

O R D E R

This Criminal Revision Case has been preferred challenging the judgment of the learned III Additional District Sessions Judge, Coimbatore dated 18.12.2015 made in C.A.No.33 of 2014.

2. The revision petitioners are the accused in this case. The case of the prosecution is that on 03.08.2011 at about 3.30.p.m, the accused abused PW2/Dharmalingam with obscene words, due to their previous enmity in connection with the property dispute. At that time, the second accused/Balamurugesan attacked PW2 on his head and caused simple injury. A1/Senthilkumar attacked PW3/Muthulakshmi on her right hand and head with the handle of a spade and injured her. They also threatened PWs2 and 3 to kill.

3. On the complaint given by PW1/sister of PW3, a case was registered in Crime No.1539 of 2011 of K.G.Chavadi police



station under Section 294(b), 324 and 506(ii) IPC. The case was registered and FIR was prepared by PW6/Ms.Saida, Sub Inspector of Police. She took up the case for investigation, went to the place of occurrence and prepared observation mahazar (Ex.P5) and rough sketch(Ex.P7) in the presence of the witnesses. She examined the witnesses and recorded their statements on 04.08.2011 and at about 3.00.a.m, she arrested the accused and sent them to remand. The case properties recovered from PW1 and later sent to the Court. She examined the doctor, who registered the Accident Register and treated the injured and got the wound certificates (Exs.P3 & P4). The investigation was completed by PW7-Mr.FrancisXavier, Sub Inspector of Police. After completing investigation, charge sheet has been filed against the accused under Sections 294 (b), 324 and 506(ii) IPC. After the case was taken on file and on considering the materials, the learned Trial Judge framed the charges against the first accused for the offence under Sections 294(b), 326 and 506(ii) IPC and against the second accused for the offence under Sections 294(b), 324 and 506(ii) IPC. The accused were questioned and they denied their involvement.

4. During the course of trial, on the side of the prosecution, seven witnesses were examined as PW1 to 7, seven documents were marked as Exs.P1 to P7 and three Material Objects were marked as M.Os.1 to 3. On the side of the defence, no witness was examined and no document has been marked. At the conclusion of trial and after consideration of the materials available on record, the learned trial Judge found the accused guilty and imposed the punishment as under:

Accused	Offence	Punishment Imposed
A1	325 IPC	To undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/- in default rigorous imprisonment for one month
A2	324 IPC	To undergo six months rigorous imprisonment and to pay a fine of Rs.1,000/- in default rigorous imprisonment for one month

5. The accused challenged the judgment of the trial Court by way of filing the Criminal Appeal in C.A.No.33 of 2014 before the III Additional District and Sessions Judge, Coimbatore. The said appeal was partly allowed and the judgment of the trial Court is modified as under:

Accused	Offence	Punishment Imposed
A1	325 IPC	To undergo nine months rigorous imprisonment and to pay a fine of Rs.1,000/- in default simple imprisonment for one month



Accused	Offence	Punishment Imposed
A2	324 IPC	To undergo three months rigorous imprisonment and to pay a fine of Rs.1,000/- in default simple imprisonment for one month

6. Aggrieved over that, the accused have preferred the present Criminal Revision Case.

7. Heard the learned counsel for the revision petitioners and the learned Government Advocate (Crl.side) appearing for the respondent and perused the materials available on record.

8. Point for consideration:

Whether the conviction and sentence of the accused (A1 & A2) for the offence under Sections 324 & 325 IPC by the learned III Additional District and Sessions Judge based on the materials available on record is fair and proper?

9. The learned counsel for the revision petitioners submitted that the Courts below omitted to appreciate the contradictions in the evidence of the prosecution witnesses and give the benefit of doubt to the accused.

10. The learned Government Advocate (Crl.Side) appearing for the State submitted that the injured witnesses had deposed about the occurrence and it has been corroborated with the medical certificates and the evidence of the doctor. The cross examination of the prosecution witnesses could not demolish the case of the prosecution and hence, the present revision is liable to be dismissed.

11. It is alleged that on 03.08.2011 at about 3.00.p.m, due to previous enmity out of a civil dispute, the accused abused PW2 and thereafter, both the accused attacked PWs2 and 3 by using spade and handle of the spade. Immediately, after the occurrence, PW1 has given the complaint and the weapons used for the occurrence were also handed over to the police and they were also identified by the witnesses during their cross examination. Apart from the injured witnesses, de facto complainant who was examined as PW1 also witnessed the occurrence. His evidence tallies to the evidence of PWs2 and 3. I do not find any material contradictions in the evidence of PW1 to PW3, which would affect the case of the prosecution or falsify the same. The doctor, who was examined as PW4, had registered accident register for PWs2 and 3. When PWs2 and 3 were taken to the hospital for treatment, they told the doctor that they were beaten by three known persons. However, the third person has not been arrayed as accused. Despite evidence of PWs1 to 3 are consistent, cogent and correct and the Courts below have appreciated their evidences in correct



12. Hence, I do not find any legal, factual infirmity so as to interfere with the judgments of the Courts below.

13. In the result, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

kmi

To

- 1.The Judicial Magistrate-VII,
Coimbatore.
2. The Chief Judicial Magistrate,
Coimbatore.
- 3.The III Additional District and Sessions Judge,
Coimbatore.
- 4.The Inspector of Police,
K.G.Chavadi Police Station,
Coimbatore District.
- 5.The Public Prosecutor,
High Court of Madras,
Chennai-600 104.

Copy To

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

Cr1.R.C.No.688 of 2016

CA(CO)
GMY(04/01/2022)