



BAIL SLIP

The Appellant/Accused viz., Rasu S/o.Muthusamy Gounder (in S.C.No.54/2014, dated 09/04/2019 on the file of Principal Sessions Judge, Namakkal, was released on bail as per the order of this Court dated 08/05/2019 made in CRL.M.P.6470 of 2019 in CRL.A.No.261 of 2019.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.02.2021

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.A.No.261 of 2019

Rasu

... Appellant/Accused

.Vs.

State:Deputy Superintendent of Police

Paramathi Velur Sub Division

Namakkal District

Cr.No.225/2010

... Respondent/Complainant

PRAYER : Criminal Appeal filed under Section 374 of Cr.P.C. to call for records and set aside the order dated 09.04.2019 made in S.C.No.54/2014 on the file of Principal Sessions Judge, Namakkal and allow this Criminal Appeal.

For Appellant : Mr.A.Padmanabhan

For Respondent : Mr.R.Suryaprakash
Government Advocate

J U D G M E N T

This Criminal Appeal has been filed against the conviction and sentence dated 09.04.2019, passed by the learned Principal Sessions Judge, Namakkal, in S.C.No.54 of 2014.

2.The respondent police have registered a case against the appellant/accused in Crime No.225 of 2010 for the offences under Sections 294(b), 324, 506(i) IPC r/w 3 (1)(x) of SC/ST (POA) Act, 1989. After completing the investigation, they laid a charge-sheet before the Judicial Magistrate, Paramathy and the



learned Magistrate committed the case to the Principal Sessions Judge, Namakkal and the same was taken on file in S.C.No.54/2014.

3. After completing the formalities, the trial Court framed charges for the offences punishable under Sections 294 (b), 324, 506(i) I.P.C. & Section 3(1)(X) of S.C./S.T. (POA) Act, 1989.

4. After trial, the learned Special Judge found the accused guilty of the offences punishable under Sections 324, 506 (i) and 294 (b) I.P.C. and Section 3(1)(X) of S.C./S.T. (POA) Act, 1989 and convicted and sentenced the appellant as under:

Sl.No.	Conviction	Sentence
1	U/s.324 I.P.C.	1 year R.I and fine of Rs.1,000/- in default to undergo S.I. for 3 months.
2	U/s. 506 (i) I.P.C.	1 year R.I and fine of Rs.1,000/- in default to undergo S.I. for 3 months
3	U/s. 294 (b) I.P.C.	3 months R.I and fine of Rs.1,000/- in default to undergo S.I. for 3 weeks.
4	3(1)(X) of S.C./S.T. (POA) Act, 1989	1 year R.I and fine of Rs.1,000/- in default to undergo S.I. for 3 months.

Aggrieved over the said Judgment of conviction, the accused has filed the present appeal before this Court.

5. The learned counsel for the appellant would submit that since P.W.1-the injured witness in her examination has not stated anything about the appellant mentioning her caste and degraded her in the public, the offence punishable under S.C/S.T. Act would not stand attracted, but the learned Sessions Judge failed to appreciate the evidence of P.W.1 and wrongly convicted the appellant for the offence punishable under Section 3 (1) (x) of S.C./S.T. Act and therefore the same is liable to be set aside. He would further submit that the appellant has not used any weapons for attacking the victim and therefore Section 324 I.P.C would not stand attracted and if at all, only Section 323 I.P.C. would stand attracted. He would further submit that the injuries sustained by the victim are only simple injuries as per evidence of P.W.13-Dr.Senthilnathan



and not grievous in nature, as alleged by the prosecution. He would further submit that there is no evidence to show that the appellant had threatened the injured and therefore the offence under Section 506 (ii) would not stand attracted and the present case against the appellant has been foisted due to previous enmity. He would further submit that the occurrence took place on 18.06.2010 and the complaint was given only on 20.06.2010 and there is no explanation on the part of the prosecution for the delay. He would further submit that there is civil dispute between both the parties and therefore a false case was foisted against the appellant, which was not taken note of by the trial Court. It is further submitted that the appellant had given counter complaint against the de-facto complainant and the same was not properly examined by the investigating officer and referred charge sheet was filed as mistake of fact. He would further submit that though P.W.1 in her evidence deposed that she was repeatedly slapped on her cheek and her hair was pulled and blouse was torn and the appellant had kicked her on the stomach, no evidence, much less medical evidence, has been placed to support the same. It is further submitted that P.W.1 admits that while she was in hospital the Viduthalai Siruthai Party men came and saw her and only because of their instigation, she implicated the appellant under S.C./S.T. Act. He would further submit that the prosecution has failed to prove its case beyond reasonable doubt and learned trial Judge failed to appreciate the evidence in proper perspective and wrongly convicted the appellant for the aforesaid offences, which requires to be interfered with.

6. The learned Government Advocate (Crl.side) would submit that the victim was examined as P.W.1 and she deposed that the father of the appellant was grazing cattle in the field of the victim, she asked him to take away the cattle from her field due to which, after two days i.e., on 18.06.2010 at 4.30 P.M., when the victim was grazing her cattle near Perumal Kovil the appellant came there and slapped her on her cheek repeatedly and also pulled her tuft and tore her blouse and nighty and also bit on her left hand and kicked on her stomach and the said overtacts have been substantiated by the evidence of P.W.13-Doctor who has stated in his evidence that he found teeth impression on the left elbow of the victim and therefore, the evidence of P.W.1 finds corroboration with medical evidence. He would further submit that the community certificate of the complainant clearly shows that the complainant belongs to Scheduled Caste community and the appellant belongs to other community and therefore Section 3 (1) (x) of S.C./S.T. Act would stand attracted and the prosecution has proved its case beyond reasonable doubt. He would further submit that trial Court has rightly appreciated the entire evidence on record and rightly convicted and sentenced the appellant and therefore the



Judgment of the trial Court does not warrant interference.

7. The case of the prosecution is that two days prior to the alleged occurrence when the father of the appellant was grazing cattle in the field of the victim, there was a wordy quarrel between the victim and the father of the appellant in which the victim asked the father of the appellant to take away the cattle from her field and due to which, after two days i.e, on 18.06.2010 at about 4.30 P.M. when the victim was grazing her cattle near Perumal Kovil the appellant came there and slapped on her cheek repeatedly and also pulled her tuft and tore her blouse and nighty and also bit on her left hand and kicked on her stomach. Further, he abused her in filthy language by uttering her caste name. Therefore the complainant preferred a complaint before the respondent police. The respondent police, after investigation laid charge sheet and the same was taken on file by Judicial Magistrate, Paramathy in P.R.C.No.15/2013 and since the offence falls under S.C./S.T.Act, the case was committed to Principal Sessions Judge, Namakkal and the same was taken on file in S.C.No.54 of 2014 and the learned Sessions Judge, after completing the formalities framed the charges as against the appellant and after trial, convicted and sentenced him as stated supra.

8. In order to prove the case, the prosecution examined as many as 15 witnesses as P.W.1 to P.W.15, and 10 documents were marked as Exs.P1 to P10, and no Material Object was marked.

9. After completing the examination of the prosecution witnesses, all the incriminating circumstances as culled out from the deposition of the prosecution witnesses were put before the appellant and the appellant denied it as false. On the side of the appellant D.W.1 and D.W.2 were examined and Exs.P1 to P10 were marked.

10. After hearing the arguments on either side and considering the evidence on record, the learned Sessions Judge, vide judgment dated 09.04.2019 in S.C.No.54 of 2014, convicted and sentenced the appellant as stated above. Challenging the judgment of conviction and sentence, the present appeal has been preferred by the appellant.

11. This Court, being an Appellate Court, is a fact finding Court, which has to necessarily re-appreciate the entire evidence and give an independent finding.

12. It is the specific case of the prosecution that on 18.06.2010 at about 4.30 P.M., the de-facto complainant while grazing her cattle, near Perumal Kovil the appellant came there and slapped her on her cheek repeatedly and also pulled her tuft



and tore her blouse and nighty and also bit on her left hand and kicked on her stomach. Further, he abused her in filthy language by uttering her caste name. In order to prove the same, the prosecution examined the defacto complainant as P.W.1 and a careful reading of deposition of P.W.1 shows that she is residing at Valnaickenpalayam and doing Coolie work and she belongs to S.C. Community and she knows the accused and he belongs to Gounder community and two days prior to the occurrence when the father of the accused was grazing his cattle in her field, as there was pending dispute between them, she asked the father of the appellant to take away the cattle, due to which after two days the appellant had committed the aforesaid offence. Further she deposed that on hearing her noise, her mother-in-law and brother-in-law came to the place of occurrence and on seeing them the appellant ran away from the place. P.W.1 went to Namakkal Government Hospital for taking treatment along with her brother-in-law and her husband Raja and after two days the police came and enquired her and thereafter obtained signature in the complaint and the signature in the complaint is marked as Ex.P1 and the complaint is marked as Ex.P2. Further, the brother-in-law of the de-facto complainant, who had seen the occurrence was examined as P.W.2 and he has clearly deposed the alleged occurrence. Further, the husband of the complainant was examined as P.W.3. He has deposed that on the alleged day of occurrence he found P.W.1 with bleeding injuries in her hand and immediately he took her to Namakkal Government Hospital for taking treatment along with his brother. P.W.s 4, 6 and 7 have corroborated the evidence of P.W.s 1, 2 and 3. P.W.8-Tahsildar who issued community certificate to the appellant (Ex.P4) and community certificate to the victim (EX.P5) deposed in his evidence that the appellant belongs to backward community and the de-facto complainant belongs to Scheduled Caste Community. From the evidence of P.W.s 1, 2, 4, 5, 6 and 7, clearly reveal that the prosecution has proved that the appellant had assaulted the victim due to which she sustained injury. Immediately after the occurrence, she was admitted in the hospital and the doctor P.W.13 examined her on 18.06.2010 at about 10.40 P.M. and on enquiry, she has stated that one known person had bit on her left elbow and on examination he found teeth impression on the left elbow and he admitted her as inpatient and after taking x-ray and scan, he opined that the injury was simple in nature. He further deposed that P.W.2 had brought the complainant to the hospital. The wound certificate is marked as Ex.P8. The evidence of the Doctor also corroborates the case of the prosecution. Further, the police went to the hospital after two days and on enquiring the victim the criminal machinery was set in motion. The whole gamut of the prosecution case leading to the registration of the complaint, this Court is of the view that the delay in lodging the complaint is in no way fatal to the case of the prosecution,



as the victim taking treatment at the hospital for simple injury and on coming to know of the occurrence, the police had gone to the hospital and got the complaint from the victim.

13. Insofar as the offence under S.C./S.T. Act is concerned, the complainant has not deposed the appellant had abused her by caste name. Though P.W.2 and P.W.7 deposed that the accused had abused the complainant by caste name, a careful reading of the complaint shows that she has not stated anywhere about the same and therefore the conviction and sentence recorded by the trial court for the offence under Section 3 (1) (x) of S.C./S.T. Act is liable to be set aside and accordingly the same is set aside. The fine amount, if any, paid in respect of the said offence shall be refunded.

14. Insofar as the other offences are concerned, this Court finds that the trial court, on proper appreciation of the evidence of the witnesses which finds corroboration both in oral and documentary form, has rightly appreciated convicted the accused and hence the conviction and sentence imposed on the appellant for the other offences viz., 294 (b), 324, 506 (i) I.P.C. are confirmed.

15. In the result, this Appeal is partly allowed as indicated above. The suspension of sentence already granted by this Court dated 08.05.2019 in CrI.M.P.No.6470 of 2019 in CrI.A.No.261 of 2019 stands cancelled. The trial Court is directed to secure the appellant for sufferance of the above sentence.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Deputy Superintendent of Police
Paramathi Velur Sub Division
Namakkal District.
Cr.No.225/2010.

2.The Principal Sessions Judge,
Namakkal.



3.The Public Prosecutor
High Court, Madras.

4.The Deputy Registrar (Crl.side)
High Court, Madras.

5.The Judicial Magistrate,
Paramathi.

6.The Superintendent of Prison,
Central Prison, Coimbatore.

7.The Director General of Police,
Mylapore, Chennai-4.

8.The District Collector,
Namakkal.

+1cc to M/s.R.Prabakar, Advocate (SR No.9127)

Crl.ANo.261 of 2019

GP (CO)
PR (09/08/2021)