



BAIL SLIP IN CRL.R.C.No.437/19

The Petitioner/Accused viz. Sasikala D/o.Kannusamy, was directed to be released on bail vide order dated 09.05.2019 made in CRL.MP.No.6601 of 2019 in CRL.R.C.No.437/2019 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.437 of 2019

Sasikala

... Petitioner

Versus

State of Tamil Nadu Rep.by
Sub Inspector of Police,
Perambalur Police Station,
Perambalur,
Crime No.254 of 2013.

... Respondent

Criminal Revision Case filed under Section 397 and 401 Criminal Procedure Code, to call for the records pertaining to the judgment dated 12.02.2019 made in C.A.No.1 of 2018 on the file of the Principal District Sessions Court, Perambalur as confirming the judgment dated 09.03.2018 made in C.C.No.218 of 2013 on the file of the learned Additional Mahila Court, Perambalur and set aside the same.

For Petitioner : Mr.A.Padmanaban

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

O R D E R

This Criminal Revision Case has been filed against the judgment dated 12.02.2019 passed in C.A.No.1 of 2018 by the learned Principal District Sessions Judge, Perambalur.

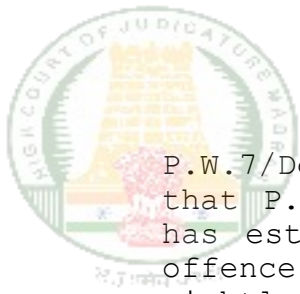
2.The respondent police registered a case in Crime No.254 of 2013 against the petitioner and another, who were arrayed as A1 and A2 for the offence under Sections 294(b), 506(i), 323 and 325 IPC. On completion of the investigation, the respondent police filed a charge sheet before the learned Judicial Magistrate, Perambalur, and the same was taken on file in



C.C.No.164 of 2013 and subsequently, transferred to Additional Mahila Court, Perambalur and re-numbered as C.C.No.218 of 2013. After trial, the learned Magistrate found A1 guilty for the offence under Section 323 IPC and imposed a fine of Rs.500/-, in default, to undergo simple imprisonment for a period of two weeks. The petitioner/A2 herein was found guilty for the offence under Section 325 IPC and convicted and sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of one month. Aggrieved over the same, the petitioner/A2 herein preferred an appeal in C.A.No.1 of 2018 before the learned Principal District and Sessions Judge, Perambalur. The learned Sessions Judge, after hearing, dismissed the appeal and confirmed the order of the trial Court. Challenging the same, the petitioner/A2 herein is before this Court by way of Criminal Revision Case.

3. The learned counsel for the petitioner would submit that there is previous enmity between the parties on account of a property dispute. There was two days delay in filing the complaint and the same was not properly explained by the prosecution. He would further submit that no offence was made out against the petitioner under Section 325 IPC and there is material contradiction between the evidence of P.W.1 and P.W.2 and none of the independent witnesses supported the case of the prosecution. Though Doctor/P.W.7 has deposed that based on the X-Ray report, he found that there was a fracture and injury sustained by one of the victim/P.W.2 was grave in nature. In order to establish the same, the prosecution has not marked the X-Ray report. In a catena of decisions of the Hon'ble Supreme Court and this Court it is stated that X-Ray has to be marked as exhibit, if not marked the offence under Section 325 is not made out. However, the trial Court as well as the lower appellate Court failed to appreciate the material evidence and simply convicted and sentenced the petitioner only on the ground of sympathy and hence, he prays to set aside the order of both the Courts below.

4.The learned Government Advocate (Crl.Side) for the respondent would submit that in order to prove the case of the prosecution, on the side of the prosecution as many as 8 witnesses were examined as P.W.1 to P.W.8. P.W.1 and P.W.2 are injured witnesses and they have clearly spoken about the injuries sustained by them. P.W.1 has clearly stated that the petitioner herein had assaulted him and his mother and also twisted the hand of his mother/P.W.2 and she was admitted in the hospital and taken treatment. P.W.2 also has clearly spoken about the specific overtact against the petitioner herein. The evidence of P.W.1 and P.W.2 are corroborated with the evidence of P.W.7/Doctor and medical evidence. The evidence of



P.W.7/Doctor, Ex.P4/Copy of the Accident Register clearly shows that P.W.2 sustained grievous injury and hence, the prosecution has established its case that the petitioner has committed the offence under Section 325 IPC. Therefore, the trial Court has rightly appreciated the evidence and convicted and sentenced the petitioner for the offence under Section 325 IPC, which was confirmed by the lower appellate Court in C.A.No.1 of 2018. Hence, there is no merit in this revision and the same is liable to be dismissed.

5.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and also perused the materials available on record.

6.It is seen from the records that P.W.1 in his evidence has clearly deposed that the petitioner herein has assaulted and twisted the hand of his mother/P.W.2 and she was admitted in the hospital and taken treatment. P.W.7/Doctor, one who examined P.W.2 has clearly deposed that while examining P.W.2, he found that P.W.2 sustained fracture, which was grievous in nature and the same was mentioned in the Accident Registered/Ex.P4. Therefore, on a combined reading of the evidence of P.Ws.1, 2 and 7 and Ex.P4, both the Courts below found that the petitioner has committed the charged offence as alleged by the prosecution.

7.Though the learned counsel for the appellant vehemently contended that the offence under Section 325 was not made out and the prosecution has failed to prove that the injuries sustained by P.W.2 is grievous in nature. In order to prove the same X-Ray was not marked. Therefore, the injuries sustained by P.W.2 was not proved by the prosecution and hence, the benefit of doubt should be extended to the petitioner.

8.It is settled proposition of law that in injured cases, the evidence of injured witness has to be considered and no corroboration is necessary, unless there is an independent eye witness. In the present case, in order to prove the injuries sustained by P.W.2, who was examined as one of the witnesses has clearly stated that there was a specific overt act against the petitioner. P.W.7/Doctor has clearly stated that based on the X-Ray report he found that P.W.2 sustained fracture in her hand. Since X-Ray has not been marked, the evidence of the Doctor cannot be ignored totally. The medical evidence corroborated the evidence of injured witnesses P.W.1 and P.W.2.

9.The scope of revision is very limited. The Trial Court and the Appellate Court had already appreciated the entire evidence and also given the findings, while exercising the revisional jurisdiction, this Court cannot sit in the arm chair of the Appellate Court and reappraise the evidences.



Therefore, this Court has to see only as to whether there is any perversity in appreciation of evidence in the judgment of the Courts below.

10. On a combined reading of the entire materials and judgments of both the Courts below, this Court does not find any perversity or infirmity in the judgments of both the Courts below and the revision is liable to be dismissed. As far as quantum of sentence is concerned, once the prosecution has proved the charges under Section 325 IPC, sentence can be imposed upto seven years. In the present case, the trial Court had already shown leniency to the petitioner and convicted and sentenced her for a period of one year. The petitioner without considering the age of P.W.2, who was aged about 60 years, twisted her hand and caused injury, which was grievous in nature and hence, there is no mitigating circumstances to reduce the sentence and there is no merit in the Criminal Revision Case. Accordingly, the Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District Sessions Judge,
Perambalur.
2. The Judicial Magistrate,
Additional Mahila Court,
Perambalur.
3. The Sub Inspector of Police,
Perambalur Police Station,
Perambalur.
4. The Public Prosecutor,
High Court, Madras.
5. The Superintendent,
Central Prison,
Coimbatore.

Cr1.R.C.No.437 of 2019

PMK (CO)
PR (02/09/2021)