



BAIL SLIP

The Petitioner/Accused Viz., Soundararajan, aged 42 years S/o.Samidurai was directed to be released on bail by order of this Court dated 08.07.2019 made in Crl.M.P.No.6787 of 2019 in Crl.R.C.No.483 of 2019 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.No.483 of 2019

Soundarrajan  
S/o, Samidurai

... Petitioner

Versus

The State Rep. By  
The Inspector of Police,  
Virudhachalam Police Station,  
Cuddalore District.  
(Crime.No.356 of 2012)

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 & 401 of the Code of Criminal Procedure, to call for the records of the judgment dated 23.04.2019 passed in C.A.No.58 of 2018 by the learned III Additional District and Sessions Judge, Cuddalore at Virudhachalam by confirming the conviction and sentence imposed on the petitioner for the offence under section 326 to undergo a period of 3 years rigorous imprisonment and to pay a fine of Rs.2,000/- in default, the petitioner sentenced to undergo 2 months simple imprisonment and further the petitioner/accused is convicted by the trial court for the offence under Section 506 (ii) IPC for a period of 2 months. The sentence shall run concurrently, confirm the order in C.C.No.115 of 2013, JM.I, Virudhachalam and set aside the same by allowing the above Criminal Revision Petition.

For Petitioner : Mr.M.R.Jothimanian

For Respondent : Mr.M.Sugendran  
Government Advocate,  
(Criminal Side)



## ORDER

This Criminal Revision Petition has been filed to call for the records of the judgment dated 23.04.2019 passed in C.A.No.58 of 2018 on the file of the learned III Additional District and Sessions Judge, Cuddalore at Virudhachalam, confirming the order dated 13.07.2018 passed in C.C.No.115 of 2013 on the file of the Judicial Magistrate No.I, Virudhachalam.

2. Petitioner is the husband. The defacto complainant is the wife.

3. The respondent police registered the case against the petitioner in Crime No.356 of 2012 for the offence under Sections 294(b), 326, 506(ii) I.P.C. After investigation, laid a charge sheet before the Judicial Magistrate No.I, Virudhachalam. The learned Judicial Magistrate taken the charge sheet on file in C.C.No.115 of 2013. After completing the formalities and conclusion of trial, found the accused guilty for the offence under section 326 I.P.C and convicted and sentenced to undergo three years Rigorous Imprisonment and to pay fine of Rs.2,000/- in default to under go simple imprisonment for two months, and convicted for the offence under section 506(ii) I.P.C and sentenced him to undergo two months simple imprisonment.

4. Challenging the said judgment of conviction and sentence, the accused filed the appeal before the Sessions Judge, Cuddalore. The learned Sessions Judge, taken the appeal on file in C.A.No.58 of 2018 and made over the same to the III Additional District and Sessions Judge, Cuddalore at Virudhachalam. The III Additional Judge, after hearing the arguments, found the appellant guilty and there was no ground to allow the appeal, dismissed the same and confirmed the judgment of the trial court. Challenging the said judgment of dismissal of the appeal passed by the appellate court, now the petitioner has filed the present Revision Case before this Court.

5. The learned counsel for the petitioner would submit that there is misunderstanding between the petitioner and his wife and subsequently they filed the matrimonial O.P and also they got divorce on compromise. That matter also amicably settled between the husband and wife and they got divorce on mutual ground. Now the petitioner and the defacto complainant legally separated and one of the condition in the said compromise is that the complaint given by the defacto complainant in Crime No.356 of 2012 has to be withdrawn by her. Investigation has been completed on the withdrawn complaint. Therefore, the conviction based on the withdrawn complaint is not legally sustainable. The prosecution failed to prove its case beyond



reasonable doubt, since the knife which was alleged to have used in the occurrence has not been recovered. For the matrimonial dispute, they have given criminal colour. Moreso, when the matter between the husband and wife amicably settled and now they legally separated, change of circumstance has to be considered and the order passed by the trial court as well as the appellate court are liable to be set aside.

6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that only after pronouncing the judgment by the trial court in matrimonial O.P, they settled the matter and got divorce. It is stated that the defacto complainant has to withdraw the complaint. By that time, the respondent police has taken the cognizance of the case and completed the investigation and trial also completed. The defacto complainant was also examined as witness and she has spoken about the incident and based on the evidence, the trial court also convicted the accused. Therefore, subsequent compromise would not affect the judgment passed by the trial court. On the date of compromise in matrimonial O.P, criminal case was not at the stage of the complaint given by the defacto complainant. Therefore, under these circumstances, there is no merit in the revision and the same is liable to be dismissed.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the materials available on record.

8. Admittedly, husband is the accused. Wife is the defacto complainant. Injured was examined before the trial court as P.W.2. She has clearly deposed that the accused is none other than the husband of the injured witness and he assaulted her with knife and due to that she sustained injury, which is grievous in nature. The doctor one who attended the victim at the time of admission in the hospital was examined as P.W.7, he examined the victim and found that there was a stabbed injury on her stomach and the victim was sent to the JIPMER hospital for further treatment. He also gave a wound certificate Ex.P3, which shows that the injury sustained by the victim is grievous in nature. In this case, injured witness was examined as P.W.2, she has clearly narrated the incident and the accused is none other than the husband of the victim. Therefore, there is no question of identification arises in this case. The doctor one who attended the injured in the hospital at the first instance was examined as P.W.7, he deposed that he was informed as known person assaulted the victim with knife. Therefore, considering the facts and circumstances, the trial court found the accused guilty for the charged offence and convicted him. Appellate court also confirmed the same.



9. The scope of the revision is very limited and the revision court while dealing with the revision has to see as to whether there is any perversity in the appreciation of evidence in the judgment. It is a well settled proposition of law that the Revision Court cannot sit in the arm chair of the appellate court and reappreciate the entire materials. Therefore, this Court has to see is there any perversity in the appreciation of the materials.

10. The victim/injured was examined as P.W.2 has clearly deposed about the incident and the doctor one who attended the injured in the hospital examined as P.W.7, who gave wound certificate Ex.P3, which corroborated the evidence of the victim and the injury sustained by her. Therefore, this Court does not find any perversity in the appreciation of the evidence by both the courts below. Revisional Court will not substitute own reason on fact findings, unless there is a perversity in the appreciation of the evidence. On a reading of the entire materials, this Court does not find any perversity in the appreciation of the evidence and there is no merit in the revision and the same is liable to be dismissed.

11. As far as the sentence is concerned, since the husband and wife have legally separated on mutual compromise, sentence alone modified from three years rigorous imprisonment to one year rigorous imprisonment which would meet the ends of justice.

12. With the abovesaid modification, the Criminal Revision Case is dismissed.

Sd/-  
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

mfa

To

1. The III Additional District and Principal Sessions Judge, Cuddalore at Virdhachalam.
2. The Judicial Magistrate No.I, Virdhachalam.



3. The Inspector of Police,  
Virudhachalam Police Station,  
Cuddalore District.

4. The Public Prosecutor,  
High Court,  
Madras.

+1cc to Mr.M.R.Jothimanian, Advocate, S.R.No.54683

CRL.R.C.No.483 of 2019

GPL (CO)  
SU(15/11/2021)