



BAIL SLIP

Karthikeyan, S/o.Palanisamy accused in C.C.No.112 of 2012 on the file of the Judicial Magistrate, No.II, Tindivanam dated 29.11.2011 and in Criminal Appeal No.71 of 2013 on the file of the First Additional District and Sessions Judge, Tindivanam dated 19.09.2014 was enlarged on bail by this High Court, Madras vide Order dated 16.10.2014 in M.P.No.1 of 2014 in CrI.R.C.No.1052 of 2014.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Criminal Revision Case No.1052 of 2014

Karthikeyan

.. Petitioner

Versus

State rep. By
The Station House Officer,
Brammadesam Police Station,
Tindivanam Taluk,
Villupuram Districtd.
Crime No.222 of 2012

.. Respondent

Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure to set aside the conviction and sentence made in C.C.No.112 of 2012 on the file of the Judicial Magistrate No.II, Tindivanam dated 29.11.2011 and confirmed in the Judgment made in Criminal Appeal No.71 of 2013 on the file of the 1st Additional District and Sessions Court, Tindivanam dated 19.09.2014.

For Petitioner : Mr.M.Venkadeshnan

For Respondent : Mr.L.Baskaran,
Government Advocate (CrI.side)



ORDER

The petitioner has come forward with this Criminal Revision Case challenging the order passed by the learned Judicial Magistrate No.II, Tindivanam dated 29.11.2011, in C.C.No.112 of 2012, and confirming the order passed by the 1st Additional District and Sessions Court, Tindivanam, in Criminal Appeal No.71 of 2013, dated 19.09.2014.

2. The petitioner herein who is the appellant in Criminal Appeal No.71 of 2013, accused/A1 in C.C.No.112 of 2012, has filed this revision challenging concurrent finding of order of conviction and sentence passed by both the 1st appellate Court and the trial Court.

3. The prosecution charged, against the petitioner / appellant under Sections 324, and 506(ii) and on his mother /A2 under Sections 448 and 506(ii) of IPC. But the same was denied by A1 and A2 during trial. To prove the charges against the accused, on the side of the prosecution P.W.1 to P.W.7 were examined and Exs.P1 to P5 were marked.

4. On appreciation of the oral evidence, the trial Court acquitted A2 from the charges and A1/ petitioner herein was convicted for the offences under Section 324 IPC and sentenced to under go imprisonment of 6 months and fine of Rs.5,000/- . Aggrieved by the said order, he has preferred an appeal in Crl.A.No.71 of 2013 before the 1st Additional District and Sessions Court, Tindivanam. Upon hearing both sides, the 1st appellate Court confirmed the conviction and sentence imposed by the trial Court. Aggrieved by the said order, he has preferred this Criminal Revision Petition.

5. The point for consideration that arise is as to whether both the appellate Court and the trial Court appreciated the evidence of prosecution witnesses and convicted the 1st accused without considering the fact that there was a delay of two days in filing the FIR and that there was previous enmity between the parties?

6. The facts reveal that P.W.1 family and the accused family are neighbours and there was previous enmity between them. On 31.03.2012 at about 5.00 p.m., while P.W.1 was nearing his house, the accused persons trespassed into his house with wooden logs and attacked P.W.2 on his head, thereby, he sustained grievous injuries. P.W.2 along with her wife went to the Police Station and lodged a complaint. Thereafter, P.W.2 was admitted in the Government Hospital at Tindivanam and he was treated by P.W.6.-Doctor. At the time of admission in the hospital, P.W.2 sustained 6 x 1 x 1 cm conducted injuries on his



head and in the frontal portion, 6 x 1 x 1 cm injury was found. The Accident Register copy was marked as Ex.P6 and the wound certificate was marked as Ex.P3.

7.To prove the charges, on the side of the prosecution, eye-witnesses P.W.1 to P.W.4 were examined. Based upon their evidence as well as the Doctor's evidence, the Trial Court convicted the accused /A1 and acquitted A2. The appellate Court also appreciated the prosecution evidence and confirmed the trial Court's verdict.

8. At the time of arguments, the learned counsel for the Revision petitioner submitted that both Courts below failed to appreciate the fact that there was previous enmity between the parties and all the witnesses are close relatives of the injured and there was no individual eye-witnesses on the side of the prosecution, thereby the parties have not proved their case beyond reasonable doubt, with sufficient material evidence. The learned counsel for the petitioner further submitted that A1 and A2 came to the house of P.W.2 and reported about his son Akbar Ali, misbehaviour with A2's Rajavalli for which they entered their house. But the same was denied by said accused, and the matter was referred to Panchayat. Due to which, wordy quarrel arose between them. But this court holds that the accused had not proved those facts by adducing any independent witness, nor he took any steps to examine the panchayats of their locality about the alleged occurrence. Therefore, the defence alleged by A1 has not been proved.

9. On considering and perusing the entire records, it is admitted fact that both the complainant family and accused family were neighbours and there was small dispute between them, even prior to the alleged occurrence. As per the prosecution case, A1 and A2 trespassed suddenly into the house of the complainant and attacked P.W.2 with wooden logs, thereby he sustained grievous injuries.

10.On the contrary, the prosecution had examined eye-witnesses P.W.1, P.W.3 and P.W.4, in order to prove the occurrence and all the witnesses categorically stated that, at the time of the occurrence, A1 attacked P.W.2 with wooden log, thereby, he sustained injuries. Though they were close relatives, but all were present in the house at the time of occurrence. Merely because they were close relatives, their evidence need not be rejected. On the other hand, the nature of the circumstances prevailed at the time of occurrence, taken into consideration, it is an admitted fact that the occurrence happened inside the house and naturally, the family members would have seen the occurrence. Therefore, the prosecution examined three witnesses to prove the occurrence. This fact was



rightly appreciated by the Courts below, and hold that the previous enmity between the parties and attack of A1 have also been proved by the prosecution beyond reasonable doubt.

11. Admittedly, there was misunderstanding between A2 and the complainant family and to safeguard his mother, A2 came to the occurrence place. Considering those facts, and his subsequent conduct 6 months sentence is imposed by the Courts below reduced to 3 months, and the period of sentence already undergone during the judicial custody is ordered to be set-off (Fine amount already paid) and out of Rs.5,000/-, Rs.4,000/- is ordered to be paid to P.W.2 by way of compensation. Other findings of the Courts below are confirmed and sentence is modified as above.

12. Accordingly, Criminal Revision Petition is disposed of.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District and Sessions Court No.I,
Tindivanam.
2. The Judicial Magistrate No.II,
Tindivanam.
3. The Public Prosecutor,
High Court of Madras.
4. The Station House Officer,
Brammadesam Police Station,
Tindivanam Taluk, Villupuram District.
5. The Superintendent,
Central Prison, Cuddalore District.

+1cc to Mr.M.Venkadeshnan, Advocate, S.R.No.51842

Cr1.R.C. No.1052 of 2014

SS(CO)
SU(10/11/2021)