



BAIL SLIP

The Appellant/Accused Viz., Karnan, S/o.Nalliappa Gounder, was directed to be released on bail as per order dated 01/10/2019 in CRL.M.P.No.14101 of 2019 in CRL.R.C.1010 of 2019 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.NO.1010 OF 2019

Karnan

... Petitioner/Accused

.Vs.

The State Represented by
The Inspector of Police,
Rasipuram Police Station,
Namakkal District.

... Respondent/Complainant

PRAYER:-

Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the judgment made in C.A.No.11 of 2015, dated 12.06.2019 by the Principal District and Sessions Judge, Namakkal, confirming the judgment made in C.C.No.174 of 2008 dated 03.02.2015 by the learned Judicial Magistrate, Rasipuram.

For Petitioner : Mr.S.N.Arunkumar

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

O R D E R

This criminal revision has been filed by the accused against the concurrent judgment of conviction passed by the learned Principal District and Sessions Judge, Namakkal, in C.A.No.11 of



2015 dated 12.06.2019 confirming the judgment of conviction passed by the learned Judicial Magistrate, Rasipuram, in C.C.No.174 of 2008 dated 03.02.2015.

2. The respondent police registered a case against the petitioner and two others for the offence under Sections 341, 326 and 323 of IPC and after investigation laid a charge sheet, which was taken on file in C.C.No.174 of 2008. The learned Judicial Magistrate, after trial and hearing the arguments advanced on either side, by judgment dated 03.02.2015, acquitted the other accused from the charges levelled against them, however, convicted the petitioner herein who was arrayed as A2 for the offence under Section 326 of IPC and sentenced him to undergo simple imprisonment for a period of two years and to pay a fine of Rs.2000/- , in default, to undergo simple imprisonment for a further period of three months. Assailing the judgment of conviction and sentence, the second accused has preferred an appeal, which was taken on file in C.A.No.11 of 2015. The learned Principal District and Sessions Judge, Namakkal, after hearing both the parties, by judgment dated 12.06.2019 dismissed the appeal by confirming the conviction and sentence passed by the trial Court. Aggrieved against the said concurrent judgment of conviction, the petitioner is now before this Court with the present criminal revision case.

3. According to learned counsel appearing for the petitioner/A2, there are material contradictions between the evidence of prosecution witnesses. There is no corroboration for the evidence of the injured witness P.W.1. Further, for convicting the petitioner for the offence under Section 326 of IPC, there should be clear medical evidence for the injuries sustained by the injured witness, but, in this case, the X-Ray was not taken and produced before the Court. Hence prosecution has failed to prove the ingredients of Section 326 of IPC and therefore conviction recorded against the petitioner is not sustainable under law. The trial Court, even though acquitted the other accused, based on the very same materials, convicted the petitioner and the lower appellate Court also has failed to re-appreciate the evidence of the prosecution witnesses and convicted the petitioner, which warrants interference of this Court.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that based on the complaint given by P.W.1 the present case was registered. P.W.1, being the injured witness, has clearly deposed the occurrence and the offence committed by the petitioner. A1 and A3 tried to waylay P.W.1 and the petitioner/A2 attacked with deadly weapon i.e. Koduval and cut his index finger. Even though the trial Court acquitted the other accused, convicted the petitioner for the



offence under Section 326 of IPC, and the same does not call for any interference of this Court.

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

6. Case of the prosecution is that due to previous enmity between the defacto complainant and the petitioner's family, with regard to some land dispute, the petitioner and the other accused waylaid P.W.1 and attacked with Koduval and wooden log which resulted in deep cut on P.W.1's index finger. Hence present case has been registered against the petitioner and two others.

7. This Court, while exercising revisional jurisdiction, cannot exercise power of the Appellate Court and this Court, being a revisional Court, cannot sit in the arm chair of appellate Court and it has no power to re-assess the evidence and substitute its views on findings of fact. Further, while deciding the revision, it can only see whether there is any perversity in appreciation of evidence by the Courts below.

8. In this case, P.W.1 is injured witness, who has clearly deposed the occurrence and the act of the accused. The petitioner/A2 used lethal weapon Koduval and cut the index finger of P.W.1. The Doctors, who treated the injuries sustained by P.W.1 have given wound certificate, which were marked as Ex.P3 and Ex.P5, in which it was clearly stated about the injuries sustained by P.W.1. Further, the non production of X-Ray report is not fatal to the case of the prosecution, since the Doctors, who treated P.W.1, have appeared before the Court and deposed about the injuries sustained by P.W.1 and the treatment. Cases of this nature, evidence of injured witness can be taken into account, unless there is any reason to disbelieve the evidence of the injured witness. If the evidence of injured witness is cogent, consistent and trustworthy and inspires confidence of the Court, conviction can be recorded.

9. A combined reading of the evidence of the injured witness P.W.1, the Doctors evidence P.Ws.7, 8, 10 and Ex.P2/Accident Register, Exs.P3 & P5/Wound Certificates, this Court finds that prosecution has proved its case against the petitioner/A2 and the trial Court has rightly appreciated the evidence of the prosecution witnesses and convicted the petitioner. The lower appellate Court, being a final Court of fact finding, has re-appreciated the entire evidence and confirmed the judgment passed by the trial Court. This Court does not any perversity in the judgment of the learned Additional Sessions Judge.



WEB COPY

10. Accordingly, this criminal revision shall stand dismissed. The trial Court is directed to secure the revision petitioner to serve remaining period of imprisonment, if any,

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

cgi

To

1. The Principal District and Sessions Judge,
Namakkal.
2. The Judicial Magistrate,
Rasipuram.
3. -do- Thro The Chief Judicial Magistrate,
Namakkal.
4. The Inspector of Police,
Rasipuram Police Station,
Namakkal District.
5. The Superintendent,
Central Prison, Salem.
6. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.W.Camyles Gandhi, Advocate, S.R.No.43842

CRL.R.C.NO.1010 OF 2019

KK(CO)
PBS/28/10/2021