

**BAIL SLIP**

Thiagarajan, S/o. Thangavel, Male, (Sole Accused) is released on Bail vide court order dated 10.08.2016 made in CrI MP(MD) No.6736 of 2016 in CrI RC(MD)No.533 of 2016.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	29.03.2021
DELIVERED ON	22.04.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

CrI.RC (MD)No. 533 of 2016

Thiagarajan

...Petitioner/Appellant/A-1

Vs.

State rep. by
The Inspector of Police,
Thirukattupalli Police Station,
Thanjavur District.
(Crime No.17 of 2014)

...Respondent/Respondent/Complainant

PRAYER : Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records relating to the order passed in CrI.A.(MD) No.52 of 2015 dated 07.06.2016 on the file of the learned Additional District and Sessions Judge, Essential Commodities Act Special Court, Thanjavur which was confirmed the Judgment passed in C.C. No.29 of 2014 dated 30.09.2015 on the file of the learned Judicial Magistrate, Thiruvaiyaru and set aside the same by acquitting the appellant.

For Petitioner : Mr.A. Mohan
for M/s.I. Suthakaran

For Respondent : Mrs.M.Anantha Devi,
Government Advocate (crl. Side)

O R D E R

This Criminal Revision Case has been filed by the petitioner to set aside the Judgment, dated 07.06.2016 in CrI.A.(MD) No.52 of 2015 passed by the learned Additional District and Sessions Judge, Essential Commodities Act Special Court, Thanjavur, confirmed the Judgment dated 30.09.2015 in C.C. No.29 of 2014 passed by the learned Judicial Magistrate, Thiruvaiyaru.



2. The revision petitioner is arrayed as A-1. The revision petitioner/A-1 and A-2 tried for the offences under Sections 294 (b) and 325 of IPC, before the learned Judicial Magistrate, Thiruvaiyaru, and the trial Court, in conclusion of the trial, found him guilty, convicted and sentenced to undergo simple imprisonment for Three years and to pay a fine of Rs.2,000/- in default, to undergo simple imprisonment for Three months for the offence under Section 325 of IPC. The petitioner preferred an appeal before the Court of Sessions and the same was taken in C.A.No.52 of 2015 and was confirmed by order, dated 07.06.2016 on the file of the learned Additional District and Sessions Judge, Essential Commodities Act Special Court, Thanjavur, confirming the conviction and sentence imposed by the trial Court. Aggrieved by the orders of the Courts below, the petitioner has preferred this revision case.

3. The brief fact of the case is that due to land dispute between P.W.1 and the accused persons, on 13.01.2014, at about 08.00 a.m., A-1 & A-2 abused P.W.1 by using filthy language. This petitioner/A-1 assaulted with stick on P.W.1's left wrist and caused grievous injury. Based on the complaint given by PW1, a case in Crime No.17 of 2014 was registered by the respondent Police. After investigation, the respondent police has filed the final report for the offences under Sections 294(b) and 325 of IPC and both the Courts below have convicted the petitioner/accused as stated supra.

4. The learned Counsel for the revision petitioner contended that the Courts below have failed to note that there is an unexplained delay of two days in preferring the complaint. He further submitted that the Courts below have failed to note that none of the doctors have been examined either by the prosecution or by the Investigation Officer who treated P.W.1 and P.W.3. He prayed to allow the Criminal Revision Case.

5. Per contra, the learned Government Advocate (Crl. Side) submitted that the prosecution has clearly established the occurrence. She further submitted that there is no reason to interfere with the Judgment of Court below and the same is liable to be confirmed and therefore, she prays for dismissal.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (crl. Side) for the respondent police and perused the material documents available on record.

7. The petitioner/accused has filed this Criminal revision case in Crl.A.(MD) No.52 of 2015 and was confirmed by order, dated 07.06.2016 in Crl.A.(MD) No.52 of 2015 passed by the learned Additional District and Sessions Judge, Essential Commodities Act Special Court, Thanjavur, confirmed the



Judgment dated 30.09.2015 in C.C. No.29 of 2014 passed by the learned Judicial Magistrate, Thiruvaiyaru.

8. The revision petitioner/appellant/A-1 was charged for an offences under Sections 294(b) & 325 of IPC and he was convicted and sentenced to undergo simple imprisonment for Three years and to pay a fine of Rs.2,000/- in default, to undergo simple imprisonment for Three months for the offence under Section 325 of IPC.

9. The case of the prosecution is that, due to property dispute pending between P.W.1 and A-1 & A-2, on 13.01.2014 at about 08.00 a.m., A-1 & A-2 said to have abused P.W.1 by using filthy language and A-1 assaulted with stick on P.W.1's left forearm and caused grievous injuries. Therefore, A-1 was charged for an offences under Sections 294(b) and 325 of IPC.

10. Initially, the revision petitioner was charged for an offences under Sections 294(b) and 325 of IPC. The trial Court, in conclusion of the trial, not found him guilty for the offence under Section 294(b) of IPC and he was acquitted from the aforesaid charge and found him guilty for the offence under Section 325 of IPC.

11. P.W.1 has deposed in his evidence that the petitioner/A-1 assaulted him with stick on his left forearm. One of the eye witness was examined as P.W.3. He is the son of P.W.1 and his evidence corroborates the evidence of P.W.1. The doctor was examined as P.W.4. Only at 02.00 p.m., P.W.1 went to Hospital. If really there was fracture due to incident at 08.00 a.m., how she went treatment at 02.00 p.m.?. Further, the Doctor deposed in his evidence that there was no chance of fracture when she was assaulted by stick in one time. No other independent witness to corroborate the evidences of P.W.1 & P.W.3. Both are relatives and also previous enmity was pending between P.W.1, 3 and the accused persons. Enmity is like a sword with two edges. The respondent police has not recovered the alleged stick.

12. Without properly appreciating the evidence of doctor the delay in getting treatment and delay in filing the First Information Report, both the Courts below erred in convicting the petitioner/A-1. Therefore, this Court is inclined allow the Criminal Revision case.

13. In view of the foregoing discussions and reasonings this Criminal Revision Case is allowed and set aside the Judgment, dated 07.06.2016 in CrI.A.(MD) No.52 of 2015 passed by the learned Additional District and Sessions Judge, Essential Services Court, Coimbatore. The Special Court, Thanjavur, confirmed the Judgment dated 30.09.2015 in C.C. No.29 of 2014 passed by the learned Judicial Magistrate, Thiruvaiyaru. The petitioner/A-1 is



acquitted from the charge framed against him. Fine amount, if any paid, shall be refunded and bail bonds, if any executed, shall stand terminated.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The Additional District and Sessions Judge, Special Judge for Essential Commodities Act Special Court, Thanjavur.
2. The Judicial Magistrate, Thiruvaiyaru, Thanjavur District.
3. The Principal Sessions Judge, Thanjavur at Kumbakonam.
4. The Chief Judicial Magistrate, Thanjavur at Kumbakonam.
5. The Inspector of Police, Thirukattupalli Police Station, Thanjavur District.
6. The Section Officer, Criminal Section, Madurai Bench of Madras High Court, Madurai. (2 copies)

+1 CC to M/s.I.SUTHAKARAN, Advocate (SR-17037[F] dated 22/04/2021)

Order made in
Cr1.RC (MD) No. 533 of 2016
22.04.2021

VB (04/05/2021) 4P / 9c