



BAIL SLIP

The Petitioner Senthanman S/o.Thittappa was released on bail order of this Court dated.23.03.2017 made in Crl.MP(MD) No.1693/2017 in Crl.RC (MD)No.186/2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 15.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.R.C. (MD)No.186 of 2017

Senthanman, S/o.Thittappa .. Petitioner/Appellant
Vs.

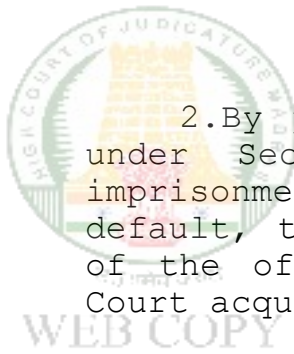
State, through the
Inspector of Police,
Uthappanayackanoor Police Station,
Madurai District.
(Crime No.34 of 2011) .. Respondent/Respondent

PRAYER: This Criminal Revision Petition is filed under Section 397 r/w. Section 401 of the Code of Criminal Procedure, against the conviction and sentence, dated 19.10.2016, imposed in C.A.No.41 of 2015, on the file of the I Additional District and Sessions Court, Madurai, confirming the conviction and sentence, dated 01.07.2015, imposed in C.C.No.62 of 2011, on the file of the Judicial Magistrate Court No.II, Usilampatti.

For Petitioner	: Mr.P.Thambidurai
For Respondent	: Mr.E.Antony Sahaya Prabahar Government Advocate (Criminal side)

ORDER

The sole accused in C.C.No.62 of 2011 on the file of the Judicial Magistrate Court No.II, Usilampatti, is the revision petitioner. The respondent Police laid a final report against the accused before the learned Judicial Magistrate No.II, Usilampatti, alleging that he had committed an offence punishable under Sections 341, 326 and 506(ii) I.P.C. After taking cognizance and after perusing 161 Cr.P.C. statements, the learned Judicial Magistrate No.II had framed charges against the accused under Sections 341, 326 and 506(ii) I.P.C.



2.By judgment dated 01.07.2015, the trial Court convicted him under Section 326 I.P.C. and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.4,000/-, in default, to undergo simple imprisonment for two weeks. In respect of the offence under Sections 341 and 506(ii) I.P.C., the trial Court acquitted the accused.

3.Challenging the same, he filed an appeal in C.A.No.41 of 2015. The learned I Additional District and Sessions Judge, Madurai, by judgment dated 19.10.2016, has dismissed the appeal and thereby, confirming the conviction and sentence imposed on the accused.

4.Challenging the said conviction and sentence, the petitioner has come before this Court with this Criminal Revision.

5.The case of the prosecution in brief is as follows:-

(i) The de-facto complainant and the revision petitioner/accused are relatives. Six months before the occurrence, there arose a land dispute between them, due to which, an enmity existed between them. While so, on 09.03.2011 around 06.00 p.m., while at the time the de-facto complainant and his friend Sivanakaran were standing near E.B. Transformer near his field, the accused came there and made a quarrel with the de-facto complainant. Ultimately, as a result of wordy altercation, the accused took an Aruval [M.O.1] and attempted to cut the de-facto complainant. When the same was resisted by the de-facto complainant, he sustained injury on his right hand and consequently, his right thumb finger was cut. After the said incident, the accused went away from the said place. The de-facto complainant, his wife, one Karupayee and Sivanakaran went to the respondent Police Station and preferred a complaint [Ex.P.1] on 19.03.2011 at about 07.15 p.m.

(ii) On receipt of the said complaint, on 09.03.2011 P.W.7 - Jeya Chitra, the then Sub-Inspector of Police, registered a case against the accused in Crime No.34 of 2011 for the offences under Sections 341, 324 and 506(ii) I.P.C. The printed F.I.R. has been marked as Ex.P.5. On the same day around 20.30 hours, she visited the scene of occurrence and in the presence of P.W.5 and P.W.6, she prepared an Observation Mahazar under Ex.P.2. She drew the Rough Sketch and the same has been marked as Ex.P.6. In the presence of the same witnesses, she seized the Aruval under the cover of Mahazar Ex.P.3. In the meantime, after lodging the complaint, P.W.1 - de-facto complainant went to the Government Hospital, Usilampatti, and after getting first aid, he proceeded to the Meenakshi Mission Hospital, Madurai, wherein he was admitted as In-patient. On examination, P.W.6 Dr.Binitha Beck attached to the Meenakshi Mission Hospital, Madurai, found there was a cut injury to the extent of 50% of right thumb finger. In this regard, P.W.6 gave treatment and issued a certificate stating that the injury sustained by



P.W.1 was grievous in nature. Further, the X-ray taken by the hospital authorities was marked as M.O.2.

(iii) In continuation of investigation, P.W.7 examined P.W.6 Doctor and recorded her statement. After concluding investigation, she came to the positive conclusion that the accused is liable to be convicted under Sections 341, 326 and 506(ii) I.P.C. She filed a final report accordingly.

(iv) Based on the above materials, the trial Court framed charges against the accused under Sections 341, 326 and 506(ii) I.P.C. The accused denied the same as false. In order to prove the charges, the prosecution examined 7 witnesses of whom, P.W.1 - Rajendran is the victim and sustained injury in the alleged occurrence.

(v) P.W.2 - Alli Malar and P.W.5 - Sivanakaran are the eye-witnesses.

(vi) P.W.3 - Sivanesan and P.W.4 - Otcha Thevar are the witnesses attested in the Observation Mahazar [Ex.P.2] prepared by the Investigation Officer and in the Seizure Mahazar [Ex.P.3], which was prepared for the seizure of Aruval [M.O.1].

(vii) P.W.6 - Dr.Binitha Beck, who is a Doctor by profession, gave treatment to P.W.1.

(viii) P.W.7 - Jeyachitra is the Sub-Inspector of Police, who registered the case and who has spoken about the same. Further, she has spoken about the entire investigation done.

6.When the above incriminating materials were put to the accused under Section 313 Cr.P.C., he denied the same as false. He examined one Madhavan as defence witness. In his examination, the said Madhavan had given evidence as during the relevant point of time, he was walking near to the field of P.W.1 and after seeing him, P.W.1 called and requested to unload the steel plate, which was found there. During that time, P.W.2 - Alli Malar also present there. When at the time, they attempted to unload the steel plate, the same has fallen on P.W.1's hand. Resultantly, P.W.1's right thumb finger was amputated. Immediately, P.W.1, P.W.2 and D.W.1 rushed to the Meenakshi Mission Hospital, Madurai, wherein P.W.1 was admitted as Inpatient. On the next day morning, one Sivanakaran, S/o.Kasi Mayan, came to the Hospital with a view to see P.W.1 and after obtaining thumb impression from him, he has stated that by using the same, he take revenge on the accused. After 10 days from the said incident, D.W.1 came to know that a false case has been registered against the accused.

7.Having considered the materials placed before him, the Magistrate No.II, Usilampatti, found the accused



guilty of the offence under Section 326 I.P.C., convicted and sentenced him as stated in Paragraph 2 of this order.

8.I have heard Mr.P.Thambidurai, learned counsel appearing for the revision petitioner and Mr.E.Antony Sahaya Prabahar, learned Government Advocate (Criminal side) appearing for the respondent Police and perused the materials available on record.

9.Now, turning to the evidence given by P.W.1, P.W.2 and P.W.3, according to them, during the relevant point of time, i.e., on 09.03.2011 around 06.00 p.m., the accused, who is the neighbouring land owner of P.W.1, came to the occurrence place and after developed a wordy quarrel, by using Aruval, cut the right forearm of P.W.1. Thereafter, P.W.1, P.W.2 and P.W.5 are all rushed to the Police Station and after lodging the complaint, they went to the Government Hospital, Usilampatti, for taking treatment. In turn, after getting first aid from the said Hospital, he proceeded to the Meenakshi Mission Hospital, Madurai, for further treatment. In this regard, P.W.6 - Dr.Binitha Beck, who gave treatment to P.W.1, gave evidence before the trial Court as while at the time of seeing P.W.1, P.W.1's right forearm was partially amputated, therefore, a plastic surgery was performed and after three days, he was discharged from the Hospital. In this regard, the oral evidence given by P.W.1, P.W.2 and P.W.5 was fully corroborated through the evidence given by P.W.6, who performed the plastic surgery.

10.In this occasion, the learned counsel appearing for the revision petitioner contended that on a careful reading of the categorical evidence given by P.W.1, P.W.2 and P.W.5, it appears that after lodging complaint before the respondent Police, all of them went to the Government Hospital, Usilampatti and after getting first aid from there, they went to the Meenakshi Mission Hospital, Madurai. In this regard, in order to substantiate the said evidence, the Doctor, who gave treatment in Usilampatti Government Hospital, was not examined. Further, no document has been obtained from the Doctors working in Usilampatti Government Hospital. According to the learned counsel, the said circumstances create a doubt whether P.W.1 has projected a false case before the Court and therefore, it cannot be held that the revision petitioner is found guilty under Section 326 I.P.C.

11.Now, on considering the said submissions with the relevant records, it is true P.W.1, P.W.2 and P.W.5 are all gave evidence before the trial Court as after lodging complaint, they went to the Government Hospital, Usilampatti. In this regard, when the same was questioned before the Investigation Officer [P.W.7], she has stated

<https://hcservices.courts.gov.in/hcservices>



treatment given to P.W.1, in Government Hospital, Usilampatti. In this regard, specific evidence given by P.W.7 is that, P.W.1 did not go to Usilampatti Government Hospital. Now, the said evidence given by the Investigation Officer creates a doubt whether the prosecution has projected a real story before the Court or not.

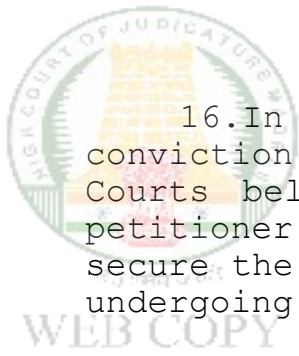
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12.However, on going through the evidence given by P.W.1 in his chief-examination, it appears that the trial Court in its proceedings recorded as P.W.1's right thumb finger was amputated. Now, on considering the said situation with the evidence of P.W.1, P.W.2 and P.W.5, the same confirms the fact that during the relevant point of time, the revision petitioner has caused the alleged injury to P.W.1.

13.It is a story put forth by the defence is that on the next day around 11.00 a.m., one Sivanakaran obtained P.W.1's thumb impression in the white paper and upon which, a false case has been registered against the accused. In this context, on going through the evidence given by P.W.7, it appears that on the day of occurrence around 17.30 hours, P.W.1 came to the Police Station and lodged the complaint. Further, in this regard, on going through the F.I.R., it seems that the said F.I.R. has been received by the Magistrate on 10.03.2011 at 10.30 a.m. In the said circumstances, if really the story put forth by the defence is found correct, it is impossible to the Police Officer to present the F.I.R. on 10.03.2011 at 10.30 a.m. before the Court. In this regard, the defence projected by the accused is having inconsistent version and the same is fatal to the defence.

14.In the said occasion, without posing any question before P.W.1, P.W.2 and P.W.5 in respect of the direction given in Usilampatti Government Hospital, this Court cannot come to the conclusion that P.W.1 got treatment in Usilampatti Government Hospital also. May be for the reason that P.W.1 sustained grievous injury, the Doctor, who was present in the Government Hospital, Usilampatti, advised P.W.1 to go to some other Hospitals having facility to perform plastic surgery.

15.The Courts below after appreciating the materials on record properly, came to the conclusion that the revision petitioner/accused was found guilty under Section 326 I.P.C. Therefore, the said findings cannot be termed as perverse. Hence, I am of the considered view that the revision filed by the petitioner is not having any merit.



16.In the result, this Criminal Revision is dismissed and the conviction and sentence imposed on the revision petitioner by the Courts below is confirmed. Bail bond, if any, executed by the petitioner shall stand cancelled. The trial Court is directed to secure the revision petitioner /accused and commit him to prison for undergoing the remaining period of sentence.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

- 1.The I Additional District and Sessions Judge,
Madurai.
- 2.The Judicial Magistrate No.II,
Usilampatti.
- 3.The Inspector of Police,
Uthappanayackanoor Police Station,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

COPY TO:-

The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

CrI.R.C.(MD)No.186 of 2017
15.09.2021

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