



BAIL SLIP

M.Balakrishnan, Aged/57, S/o.Mayandi Thevar Petitioner /
Petitioner was released on bail of this Court order dated
07.09.2017 made in Crl.MP(MD)No.8162 of 2017 Crl.RC(MD)No.710 of
2017.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.R.C. (MD)No.710 of 2017

M.Balakrishnan : Petitioner/Appellant/
Accused

Vs.

State rep. by
The Inspector of Police,
Ambasamudram Police Station,
Tirunelveli District.
(Crime No.138/2012)

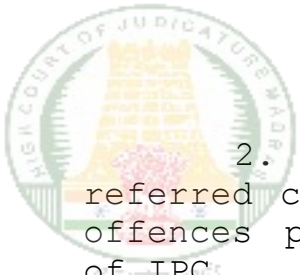
: Respondent/Respondent/
Complainant

PRAYER: The Criminal Revision Petition is filed under Section 397
r/w 401 of the Code of Criminal Procedure, to call for the records
relating to the judgment passed in C.A.No.15/2017, dated
05.07.2017 on the file of the IV-Additional District and Sessions
Judge, Tirunelveli confirming the order of conviction and sentence
passed in S.C.No.285/2014, dated 01.02.2017 on the file of the
Subordinate Judge, Ambasamudram and set aside the same and acquit
the petitioner/appellant/accused from the charges levelled against
him.

For Petitioner : Mr.S.R.A.Ramachandhran
For Respondent : Mr.M.Muthumanikkam
Counsel for Government of
Tamil Nadu (Crl.side)

ORDER

The present Criminal Revision Case has been filed to check
the correctness of the judgment rendered by the learned IV-
Additional District and Sessions Judge, Tirunelveli in
C.A.No.15/2017, dated 05.07.2017, wherein, the judgment rendered
by the Subordinate Judge, Ambasamudram in S.C.No.285/2014, dated
01.02.2017 was confirmed.



2. The revision petitioner is the sole accused in the above referred case. Before the trial Court, he stood charged for the offences punishable under Sections 341, 294(b), 307 and 506(ii) of IPC.

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3. After full-fledged trial, the learned trial Judge found the accused guilty for an offence under Section 326 of IPC and accordingly, convicted and sentenced him to undergo Rigorous Imprisonment for three years and to pay a fine of Rs.5,000/- in default, to undergo Simple Imprisonment for six months. The above said fine amount should be paid to the victim as compensation in terms of Section 357 of Cr.PC. In respect to the other charges, the revision petitioner was acquitted by the trial Court.

4. Challenging the said conviction and sentence, the revision petitioner preferred an appeal in C.A.No.15/2017 before the IV-Additional District Court, Tirunelveli. The learned IV-Additional District Judge, Tirunelveli by judgment, dated 05.07.2017 affirmed the findings arrived at by the trial Court and dismissed the appeal. Therefore, the petitioner is before this Court with the present Criminal Revision Case.

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

(i) The accused and the defacto complainant are residing in the same village. Prior to the occurrence, they were having the land dispute. In 2010, the accused herein assaulted the defacto complainant (P.W.1-Paramasivan) and caused injuries on his head. In this regard, P.W.1 gave a criminal complaint and after concluding the investigation, the same has been pending before the Learned Judicial Magistrate Court, Ambasamudram. In the mean time, the accused repeatedly insisting P.W.1 to withdraw the criminal case, and on 01.05.2012 at 4.30 p.m., when P.W.1 was grazing his sheep, the accused came there and insisted upon him to withdraw the criminal case, but, P.W.1 responded that they would settle the issue only through the Court. Suddenly, enraged the accused by saying that "நீ உயிரோடு இருந்தால்தானே கேஸ் நடக்கும், இத்தோடு செத்து தொலை என்று சொல்லி" attacked P.W.1 on his head with sickle repeatedly. When P.W.1 trying to prevent the attack through his hand, he sustained injury on his right shoulder and right forehead, he raised hue and cry and others came there by raising shouts and on seeing the others, the accused left the scene of occurrence by indulging threaten.

(ii) P.W.2-Jeya Pramachi, who is the wife of P.W.1, arranged Ambulance and admitted P.W.1 in the Ambasamudram Government Hospital, for treatment.

(iii) In the hospital, P.W.8-Dr.Venkatachalapathy examined



P.W.1 and found the following injuries:-

"cut injuries on his right shoulder and right elbow with bone deep measuring 12 x 4 cm and 11 x 4 cm respectively". According to him, the said 2 injuries were grievous in nature. In this regard, he issued an Accident Register under Ex.P2. Further, after giving first aid, he referred P.W.1 to the Tirunelveli Medical College Hospital, Palayakottai, wherein, P.W.9-Dr.Praveen, examined the injured and took the X-ray and issued a certificate as the injuries sustained by the injured are grievous in nature. The X-ray taken by the Hospital Authorities are marked as M.O.2 series.

(iv) When at the time P.W.1 was in hospital, P.W.10-Kannan, the then Sub-Inspector of Police, Ambasamudram, came there and around 5.30 p.m., he recorded the statement of P.W.1. After recording the statement from him, P.W.10, returned to the police station and registered a case against the accused in Crime No.138/2012 for the offences punishable under sections 341, 294 (b), 307 and 506(ii) IPC. The complaint given by P.W.1 was marked as Ex.P1 and the printed FIR was marked as Ex.P3. After registration of the case, P.W.10 handed over the FIR to the Inspector of Police, for investigation.

(v) In turn, P.W.11-Suresh Kumar, the then Inspector of Police, Ambasamudram Police Station, took up the case for investigation and on the same day around 7.45 p.m., he visited the occurrence place and prepared an Observation Mahazar under Ex.P4. He drawn the Rough Sketch and the same has been marked as Ex.P5. In the presence of P.W.6-Ganesan and P.W.7-Manikandan he recovered a sickle under the cover of Seizure Mahazar under Ex.P6. He examined the witnesses and recorded their statements on 20.07.2012.

(vi) Finally, after concluding the investigation, he came to the positive conclusion that the accused is liable to be convicted for the offences punishable under Sections 341, 294(b), 307 and 506(ii) IPC. He filed a final report, accordingly.

6. Based on the above materials, the trial Court framed the charges against the accused under Sections 341, 294(b), 307 and 506(ii) IPC. The accused denied the same as false and opted for trial. Hence, in order to prove their case, on the side of the prosecution, as many as 11 witnesses were examined as P.W.1 to P.W.11 and marked 6 documents as Ex.P1 to Ex.P6, besides two Material Objects M.O.1 & M.O.2.

(i) Out of the above said witnesses, PW1-Paramasivan, who is the defacto complainant/injured, speaks about the occurrence as during the relevant point of time when he was grazing his sheep,



the accused came there and attacked on his right shoulder and right forehead.

(ii) P.W.2-Jeya Piramachi is the wife of P.W.1. Though she has narrated the occurrence in her chief-examination, during the time when she was put under the cross-examination, she has stated that only after getting information from the person, who attended the festival, she came to the occurrence place and saw the injured. Therefore, the said evidence is clear that she is not an eye witness to the occurrence.

(iii) P.W.3-Muthupandi and P.W.4-Kailasam are the alleged eye witnesses and they did not give any evidence to support the case of the prosecution. Therefore, after getting leave from the Court, they were treated as hostile witnesses.

(iv) P.W.5-Selvi.Chandra, who is the daughter of P.W.1, speaks about the details in respect to the treatment taken by the injured.

(v) P.W.6-Ganesan and P.W.7-Manikandan are the alleged witnesses attested in the Observation Mahazar and in the Seizure Mahazar prepared for recovery of sickle and they have not given any evidence in support of the prosecution.

(vi) P.W.8-Dr.Venkatachalapathy and P.W.9-Dr.Praveen are the doctors. They gave evidence in respect to the treatment given to the injured and also about the nature of injuries sustained by the injured.

(vii) P.W.10-Kannan and P.W.11-Suresh Kumar are the police officers speaks about the receipt of the complaint from P.W.1 and about the investigation.

7. When the above incriminating materials were put to the accused under Section 313 Cr.P.C. the accused denied the same as false. However, he did not chose to examine any witness or mark any document on his side.

8. Having considered all the above materials and after hearing the arguments advanced by the learned counsel appearing on either side, the learned trial Judge convicted and sentenced the accused as stated above. Further, the sentence awarded by the trial Court was confirmed by the learned IV Additional District Judge, Tirunelveli in C.A.No.15 of 2017.

9. I have heard Mr.S.R.A.Ramachandhran, learned counsel appearing for the revision petitioner and Mr.M.Muthumanikkam, learned Government Advocate (Crl.side) appearing for the



respondent. I have also perused the records carefully.

10. It is the contention raised by the learned counsel appearing for the revision petitioner that due to the previous enmity, P.W.1 lodged a false complaint against the accused. It is a case of the prosecution that at the time when the accused assaulted P.W.1, there was a crowd for attending the festival, but none of the persons, who saw the occurrence, has not given any evidence in support of the prosecution. Therefore, the Courts below without considering the said aspects, convicted the accused, which is erroneous in law.

11. Per contra, the learned Government Advocate (Crl.side) appearing for the respondent would submit that the evidence given by P.W.1 in respect to the assault made by the accused is fully corroborated by means of evidence given by the doctor. Therefore, for accepting the case of the prosecution, the evidence of others not necessary. According to him, the findings rendered by the Courts below should not be disturbed by this Court.

12. I have considered the rival submissions made by the counsel appearing on either side.

13. Before the trial Court, the copy of the FIR, which is the earliest document prepared by the Investigating Officer, was marked as Ex.P3. Now, on go through the contents of the said FIR, it appears that the alleged occurrence had happened on 01.05.2012 around 16.30 hours, thereafter, the case has been registered on the same day around 19.00 hours and the said FIR has been received by the Magistrate on 02.05.2012 at about 12.10 hours. Therefore, considering the said factors, it should be necessary to believe that the case has been registered without any delay.

14. Now, on go through the averments found in the complaint, it seems that during the relevant point of time, the accused came there with sickle and after insisting P.W.1 for withdrawing the case, which is pending before the Magistrate Court, attacked P.W.1 and caused two injuries. Further, the said averment was corroborated during the time when the defacto complainant has given as P.W.1, more than that, corresponding to the said evidence, the doctors P.W.8 and P.W.9, who treated P.W.1, gave evidence as the injuries sustained by P.W.1 are grievous in nature. Further, the same has been decided after taking X-ray to the injuries sustained by P.W.1. Accordingly, the evidence given by P.W.1 in respect to the occurrence is fully corroborated through the evidence given by the Medical Officers.

15. No doubt, P.W.1 and the accused are having previous enmity in respect to the land dispute, further, another one case



has been registered against the accused alleging that he caused injury to P.W.1, therefore, being the reason that the accused is having enmity with P.W.1, there may be a possibility to attack him as alleged by the prosecution.

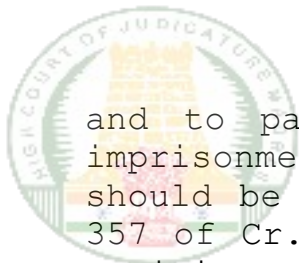
16. It is true that the alleged eye witnesses, who are all present during the time of occurrence, had not given any evidence in support of the prosecution. Insofar as the criminal cases are concerned as observed by the Supreme Court the evidence of an ocular witness, if accepted, is sufficient to warrant conviction though in appropriate cases the court may as a measure a caution seek some confirming circumstances from other sources. But ordinarily, the evidence of a truthful eye witness is sufficient without anything more, to warrant a conviction and cannot, for instance, be made to depend for its acceptance on the truthfulness of other items of evidence such as recovery of weapons etc, at the instance of the accused by the police. Only, in the circumstances, the evidence of a witness when is neither wholly unacceptable nor wholly impeccable, corroboration is essential.

17. In otherwise, it is a case as rightly pointed out by the learned Government Advocate appearing for the respondent that the evidence given by P.W.1 is wholly reliable and therefore, corroboration of other witnesses is not necessary. As a general rule court can and may act on the testimony of a single witness though uncorroborated, that unless corroboration is insisted upon by statute the court should not insist upon corroboration. Therefore, applying the said principles with the case in our hand, herein it is a case, no circumstances warrants to corroborate the evidence given by P.W.1. Therefore, I fully endorsed with the findings arrived at by the Courts below. In otherwise, this Court did not hold that the judgment rendered by the Courts below is a perverse or cross injustice. Hence, the Criminal Revision Case is liable to be dismissed.

18. In the said circumstances, the learned counsel appearing for the revision petitioner seeks some leniency in awarding the sentence to the revision petitioner.

19. On considering the same, for the reason that the petitioner is facing the trial in this case for the past 8 years, I am of the opinion that sentencing the revision petitioner for a period of two years Rigorous Imprisonment is sufficient to meet the ends of justice.

20. Accordingly, this Criminal Revision Petition is partly allowed, the conviction and sentence awarded by the Courts below on the appellant under Section 326 of IPC is reduced to two years



and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for 6 months is confirmed. The above said fine amount should be paid to the victim as compensation in terms of Section 357 of Cr.PC. The period of imprisonment already undergone by the revision petitioner shall be set off under Section 428 of Cr.P.C.

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Sd/-

Assistant Registrar (CS I)

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/ /2021

Sub Assistant Registrar(CS)

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To

- 1.The IV-Additional District and Sessions Judge,
Tirunelveli.
- 2.The Subordinate Judge,
Sub-Court,
Ambasamudram
- 3.The Superintendent,
Central Prison,
Palayamkottai.
- 4.The Inspector of Police,
Ambasamudram Police Station,
Tirunelveli District.
- 5.The Additional Public Prosecuto,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

CrI.R.C. (MD)No.710 of 2017
26.08.2021

SRK (CO)
SB(14.09.2021) 7P 8C