

Bail Slip

The Petitioner / Accused viz Jayamani, Female, D/o.Kannayiram was released on bail as per order of this Court dated 06.05.2015 in M.P.No.1 of 2015 in CrI.R.C.No.453 of 2015 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2022

CORAM:

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

CrI.R.C.No.453 of 2015
and
M.P.Nos.1 & 2 of 2015

Jayamani

... Petitioner

Vs

The State Represented by
The Sub-Inspector of Police,
Arakkonam Town Police Station,
Arakkonam,
Vellore District.

...Respondent

Prayer: Criminal Revision Petition has been filed under Section 397 r/w Section 401 of Cr.P.C. to set aside the judgment of conviction, convicting the appellant under Section 324 of I.P.C. and sentenced to undergo rigorous imprisonment of 6 months and pay a fine amount of Rs.1,500/- in default to undergo simple imprisonment of 3 months in C.C.No.341 of 2006 dated 05.11.2009 passed by the learned Judicial Magistrate, Arakkonam and the same was modified into 3 months of rigorous imprisonment and fine amount of Rs.1,500/- failing which to undergo 3 months of simple imprisonment was remain same in CrIA.No.24 of 2010 dated 24.02.2015 passed by the learned II-Additional District and Sessions Judge, Ranipet, Vellore District.

For Petitioner : M/s.Nagarani
Legal Aid Counsel

For Respondent : Mr.N.S.Suganthan
Government Adocate (CrI.side)

ORDER

This appeal is filed against the concurrent finding of the Court below in a matter arising under under Section 324 of I.P.C.

2.The petitioner herein is the 1st accused in C.C.No.341 of 2006. He as A1 was charged for offences under Sections 294 B, 324 and 506(ii) I.P.C. The Co-accused 2 to 4 were charged for offences under Section 323, 506(ii) I.P.C. The Trial Court convicted and sentenced A1 for offence under Section 324 I.P.C., acquitted A2 to A4 from all the charges.

3.The case of the prosecution as spoken through witnesses is that on 04.09.2006 near Munuswamy Barber Shop, at around 7.50 p.m., PW1 was attacked on his head by A1-Jayamani with a knife. The other accused attacked him using wooden-logs. PW1 sustained injury on his head, on the right and left hand and right leg . When PW2 came in his auto all the accused ran away from the scene of occurrence. PW2 has substantially corroborated with PW1 and narrated the incident.

4. Doctor who medically examined the victim PW1, has given a Wound Certificate Ex-P9 which indicates that PW1 had sustained lacerated injury in mid peripheral region 6X1 cm, right fore arm 5X2 cm on the left leg and on the left hand, lacerated injury over right leg and over the cheek.

5. The Trial Court, based on these evidences, convicted A1 for offence under Section 324 I.P.C. and sentenced him to undergo 6 months rigorous imprisonment and Rs.1,500/- fine in default to undergo simple imprisonment for 3 months. The other accused A2 to A4 were acquitted for want of evidence.

6. Aggrieved over the judgment of conviction and sentence rendered by the Trial Court, the accused preferred a Appeal before the learned II-Additional District and Sessions Judge. The Appellate Court on re-appreciation of evidence found that the prosecution has proved the guilty of A1 committing the offence punishable under Section 324 I.P.C., by causing harm using deadly weapons, but altered the sentence to 3 months rigorous imprisonment and confirmed the fine amount and default sentence.

7. By way of revision the said order is challenged on the ground that the Courts below failed to consider that there is no eye witness for the alleged occurrence. PW2 and PW3 are only hearsay witnesses who reached the place after completion of the crime and their evidences cannot be taken into consideration to corroborate the evidence of PW1. The failure to seize the

material object, renders the prosecution to fail since there is no proof that the injury sustained by the PW1 was caused using deadly weapon. Further, pointing out that PW4 and PW5 who are Mahazar Witnesses have turned hostile, the learned counsel for the petitioner contended that the entire fabricate of the prosecution case has been disproved and therefore, conviction and sentence ought to be set aside.

8. Per contra, the learned Government Advocate (Cr1. side) would submit that PW1 has sustained injury and he is the injured witness and accused is a person known to him. The over tact of this petitioner is specifically spoken by the witness which corroborates to the injury sustained by him and found in the Wound Certificate marked as Ex-P9. The non-recovery of the weapon used in the crime is not a ground to acquit this petitioner when other evidence established the guilt of the witness beyond doubt.

9. This Court on perusing the deposition of PW1, who is the injured witness, he has identified this petitioner as one of the assailant and the injury he sustained on the hand of this petitioner, which is fully corroborated with the medical evidence. This unimpeachable evidence is suffice to hold the PW1 is guilty of the offence under Section 324 I.P.C., since the deposition inspires confidence of the Court. There is no other possible reason for the injured or to implicate A1 as the assailant. In fact, the Appellate Court after considering the nature of the injury and the crime had reduced the substantive period of sentence to 3 months rigorous imprisonment from 6 months rigorous imprisonment.

10. For the above said reasons, this Court found that there is no error in the finding of the orders below. Hence, this Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed.

11. The learned Magistrate is directed to secure the accused and commit him to prison to undergo the remaining period of sentence.

12. The High Court Legal Service Authority is directed to pay the scheduled remuneration to the Legal Aid counsel who appeared on behalf of the revision petitioner and able assisted the Court.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gba

To

1. The Judicial Magistrate,
Arakkonam,
2. The II-Additional District and Sessions Judge,
Ranipet, Vellore District.
3. The Sub-Inspector of Police,
Arakkonam Town Police Station,
Arakkonam,Vellore District.
4. The Public Prosecutor,
Madras High Court, Chennai.

Copy to
The Secretary,
High Court Legal Service Authority,
Chennai.

+1cc to M/s.Nagarani, Advocate, S.R.No.41620

Cr1.R.C.No.453 of 2015

SKM[co]
NSK/21/07/2022