



Bail Slip

John @ Jayamani accused in C.C.No.126 of 2014 on the file of the Judicial Magistrate, Arni and C.A.No.30/2014 on the file of Sessions Court, Tiruvannamalai was enlarged on bail by this Honble High Court, Madras vide order dated 23/06/2013 in Crl.M.P.No.6797 of 2016 in Crl.R.C.No.895 of 2016.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Criminal Revision Case No.895 of 2016 &
Crl.M.P.No.6798 of 2016

John @ Jayamani

... Petitioner/Accused

Vs

The State rep by
Inspector of Police,
Arni Taluk Police Station,
Arni, Tiruvannamalai District.
(Crime No.44 of 2014)

... Respondent/Complainant

Prayer:- This Criminal Revision is filed under Section 397 r/w. 401 of Cr.P.C., challenging the judgment dated 16.12.2015 passed by the Sessions Court, Tiruvannamalai made in C.A.No.30 of 2014 confirming the conviction and sentence passed by the learned Judicial Magistrate, Arani dated 20.11.2014 made in C.C.No.126 of 2014.

For petitioner : Mr.B.Jawahar

For respondent : Mr.A.Damodaran
Additional Public Prosecutor

O R D E R

The petitioner/accused has been convicted by the trial Court in C.C.No.126 of 2014 by a judgment dated 20.11.2014 and has been sentenced three months rigorous imprisonment for the offence under section 323 of IPC and directed to pay a fine of



Rs.500/- in default to undergo 15 days simple imprisonment and for the offence under section 324 of IPC, the petitioner has been sentenced to one year rigorous imprisonment and to pay a fine of Rs.2000/- in default to undergo one month simple imprisonment. Against which, the petitioner had preferred an appeal to the Sessions Judge, Tiruvannamalai in C.A.No.30 of 2014. The Sessions Judge, Tiruvannamalai by the judgment dated 16.12.2015 dismissed the appeal by confirming the conviction and sentence of the trial Court against which the present revision has been filed.

2. The gist of the complaint is that on 21.12.2014 at about 7 a.m. P.W.2, mother of P.W.1 was clearing the weeds and placing them on the petitioner's land which was questioned by the petitioner. Further, P.W.2 questioned about the petitioner's goat grazed in their land and there was heated exchange of words. P.W.2 was pulled and pushed down. On hearing her voice, P.W.1 came to the scene of occurrence. At that time the petitioner is said to have taken a stone and assaulted him on his left fore head and also using abusive words threatened them. Thereafter, taking the stone, the petitioner ran away from the scene. P.W.3 and P.W.4 are the witnesses to the assault. Thereafter, P.W.1 and P.W.2 have gone to the Government Hospital Arani and P.W.1 took treatment. On receipt of the information from the Government Hospital, P.W.9 Sub Inspector of Police had gone to the Government Hospital, received the complaint and registered the First Information Report in Ex.P.5. Thereafter, P.W.10 took up the investigation, recorded the statement of witnesses, prepared observation Mahazar and rough sketch, collected medical documents from the doctor, on completion of investigation, filed the final report.

3. During trial, P.W.1 to P.W.10 were examined and Ex.P.1 to Ex.P.6 were marked and the trial Court convicted the petitioner and the lower appellate Court confirmed the conviction of the trial Court as stated above.

4. The contention of the petitioner is that the fight arose because of P.W.2's abrasive act. It was P.W.2, while clearing weeds has put the same on the petitioner's field invited trouble. The petitioner, P.W.1 and P.W.2 are close relatives, having adjacent lands. Since, P.W.2 was questioned about her act, she picked fight over the petitioner for allowing his goat to graze in their land. Hence, there was wordy quarrel and she



was pushed down. Thereafter, P.W.1 came there, who is said to have been assaulted on his fore head. But the doctor who recorded the accident register records that there was injury above left eye. He further submitted that P.W.1 had stated in evidence that the petitioner had, after hitting him with stone, ran away with the stone. But P.W.2 states that she identified the stone lying in the scene of occurrence to the police. He further submitted that P.W.1 in his evidence state that he went to hospital after he was attacked at 9 a.m. On the other hand, P.W.2 state that the attack was at 7 a.m. and thereafter, police received the complaint at 9.a.m, which is a vital contradiction confirm the falsity of the prosecution case.

5. He further submits that other two witnesses namely P.W.3, the wife of P.W.1 admits that she came to the scene after the occurrence. P.W.4, who is projected as an eye witness not supported the case of the prosecution. P.W.5 deposed that he heard about the incident and came latter, he is a hearsay witness. P.W.6 and 7, are witnesses to the observation mahazar, state that they have signed in the document without knowing its contents. P.W.8, the doctor who treated P.W.1 and P.W.2, issued wound certificate Ex.P.3 as regards P.W.2, for P.W.1 Ex.P.4. He would state that the injuries sustained by P.W.2 are simple in nature, as regards P.W.1, the injury sustained by him may be caused due to falling on a sharp article. In this case, admittedly, no material object seized and produced. The lower Court convicting the petitioner for the assault on P.W.2 under section 323 IPC and assault on P.W.1 under section 324 IPC are not sustainable.

6. The learned Public Prosecutor submits that in this case P.W.1 and P.W.2 are injured witnesses, P.W.1 was attacked with sharp edged stone on his forehead. The doctor, P.W.8 examined P.W.1 and P.W.2 immediately after the occurrence. The slight variation in their evidence, confirms, truthfulness of their evidence. The presence of the witnesses are not denied. Both are injured witnesses. P.W.3 and P.W.4 are other eye witnesses. P.W.5 and P.W.6 are witnesses for the observation mahazar. P.W.8 Doctor issued Ex.P.3 and Ex.P.4 wound certificates. P.W.9 Sub Inspector of Police recorded the complaint from P.W.1 and registered the First Information Report. P.W.10, who is the investigating Officer, collected medical documents, recorded statement of witnesses and filed final report. On the evidence and materials produced, the trial Court convicted the petitioner. The lower appellate independently assessed the



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modified to period undergone. The period of sentence already undergone by the revision petitioner is directed to be set off under Section 428 of Cr.P.C.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

vrc
To

1. The Sessions Court,
Tiruvannamalai
2. The Judicial Magistrate,
Arani.
- 3.-Do- Thro' The Chief Judicial Magistrate,
Tiruvannamalai.
- 4.The Inspector of Police,
Arni Taluk Police Station,
Arni, Tiruvannamalai District.
- 5.The Superintendent,
Central Prison,
Vellore.
6. The Public Prosecutor,
High court, Madras.

+1cc to Mr.B.Jawahar, Advocate Sr.18619

Cr1.R.C.No.895 of 2016

ss[co]
srg 11/04/2022