



BAIL SLIP

The Petitioner/Accused Viz., Kumaravel, Male son of Arumugam was released on bail as per order of this Court dated 05.11.2014 in Crl.Mp.No.1 of 2014 in Crl.Rc.No. 1140 of 2014 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2022

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

CRL.RC.NO.1140 OF 2014

Kumaravel

... Petitioner/
Appellant/Accused

Vs

State rep by Inspector of Police,
Namagiripet Police Station,
(Crime No.363 of 2011)

... Respondent/
Respondent/Complainant

Prayer: This Criminal Revision Petition has been filed, under Section 397 read with 401 of Cr.P.C, praying to call for the records concerned in CA.No.46/2013 dated 27.08.2014 on the file of the Principal Sessions Judge, Namakkal confirming the conviction and Sentence passed by the Assistant Sessions Judge, Rasipuram, Namakkal District made in SC.No.50/2011 dated 11.11.2013 sentencing him to undergo 7 years rigorous imprisonment and Rs.2000/- fine and in default to undergo 6 months rigorous imprisonment under Section 307 of IPC and set aside the same and acquit the petitioner.

For Petitioner : Mr.T.R.Ravi
For Respondent : Mr.L.Baskaran
Government Advocate (Crl.Side)



ORDER

This Criminal Revision Petition has been filed by the accused challenging the judgement of the Principal Sessions Judge, Namakkal, in Crl. A.No.46 of 2013 dated 27.08.2014, which confirms the conviction and sentence made by the trial/Assistant Sessions Judge, Rasipuram/Namakkal in SC.No.50 of 2011 convicting the petitioner for the offence under Section 307 of IPC and sentencing him to undergo seven years rigorous imprisonment and to pay a sum of Rs.2,000/-, in default to undergo rigorous imprisonment for six months.

2. The case of the prosecution is that on 25.02.2011 at about 4.15 p.m, when the de-facto complainant was talking with his relative Doctor over cell phone by lying in a stone/rock, nearby Anna colony in Namagiripattai, at that time, the petitioner/accused Kumaravel came to the place of occurrence and attacked the de-facto complainant with knife and shouted as to why he spoke with his lover Megala over cell phone, and caused injuries to him. Based upon the complaint given by the de-facto complainant, he was charged under Section 307 IPC by the prosecution. Before the trial Court, accused denied the charge and on examining the witnesses P.W.1 to P.W.8 and exhibiting documents Ex.R1 to R7 and after completing the trial, the Court below concluded that the petitioner committed the offence and thereby he was convicted for seven years' rigorous imprisonment with fine of Rs.2,000/-. Aggrieved by the judgement, the accused/petitioner had filed an appeal in Crl. A.No.46 of 2013 before the Principal Sessions Judge, Namakkal, and the appeal was dismissed confirming the conviction rendered by the trial Court.

3. Aggrieved by the judgement of Court below, the petitioner/accused filed Criminal revision petition before this Court under Section 397 r/w 401 of Cr.P.C, contending that both the trial Court as well as lower appellate Court failed to consider the material contradiction of the prosecution as well as the other defects and lapses on the side of the investigation and erroneously confirmed the conviction. Hence, he prays to allow this Criminal Revision petition by setting aside the judgement of conviction by the Court below.

4. The learned counsel for the petitioner would submit that the alleged complainant/P.W.1 is the close relative of one Magala who is having relationship with the petitioner/accused, and due to that alleged relationship of the accused/petitioner herein with his relative Magala, there was some misunderstanding between the petitioner and the de-facto complainant and the same culminated into filing of the false complaint against the petitioner. Furthermore no such alleged



occurrence had happened and the eye witnesses are said to be close friends of P.W.1 and their evidence was utilised to sent him to jail. Further, the learned counsel for the petitioner pointed out that there is no other independent witnesses on the side of the prosecution to prove the alleged occurrence.

5. The learned Government Advocate (Crl.Side) also submits that the de-facto complainant is not interested to proceed further against the petitioner and the dispute has been amicably settled between the parties.

6. Considering the above facts and perusal of the records it reveals that admittedly the witnesses P.W.2 and 3 are working along with P.W.1 in the Amway Office and as per the case of the prosecution i.e., on 20.05.2011 at 4.15 p.m the alleged occurrence was happened near the play ground. At that time, P.W.2 and 3 were doing exercise in the ground and happened to see the occurrence. Accordingly, they were treated as eye witnesses on the side of the prosecution. As rightly pointed out by the learned counsel for the petitioner, these two witnesses are said to have been employed in Amway office and it is not possible at 4.15 p.m in mid evening they were doing exercise in the play ground and they saw the alleged occurrence, because at 4.15 p.m, no prudent man would do exercise in the play ground. Therefore, version of the prosecution that they were present at the time of alleged occurrence is not acceptable, but, the trial Judge as well as the Session Judge failed to appreciate as to whether it is possible for the person to do exercise at 4.15 p.m in the play ground. The reason stated by the prosecution about the presence of the witnesses P.W.2 and 3 in the play ground, is un-acceptable but the Court below failed to appreciate the facts and erroneously appreciated the version of the eye witnesses.

7. Further, as per the prosecution, the de-facto complainant was attacked by the revision petitioner with knife, thereby he suffered injuries. Admittedly, the weapon used for the alleged occurrence and the blood stained cloth or any other material, are not collected from the scene of occurrence and there is no explanation on the side of the prosecution for non production of the weapon and other material evidence. It is pertinent to note that this petitioner is charged under Section 307 IPC, which read as follows.

307. Attempt to murder –

Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is



prosecution caused interference by this Court. Accordingly criminal revision petition is allowed. Even at the time of the arguments, learned Counsel for the petitioner would submit that after filing of this revision petition there is joint compromise between the de-facto complainant and the accused and to that effect the petitioner filed compromise memo before this Court. As discussed above, the prosecution has failed to prove the case beyond reasonable doubt. This Criminal revision petition is allowed by setting aside the order of the trial Court as well as lower appellate Court. This Conviction is set aside and accused/petitioner is acquitted from all charges.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

pbl

To

- 1 The Judicial Magistrate No.11, Rasipuram.
- 2 The Chief Judicial Magistrate,
Namakkal. (For information)
- 3 The Principal Sessions Judge,
Namakkal.
- 4 The Assistant Sessions Judge,
Rasipuram,
Namakkal District.
- 5 The Superintendent, Central Prison,
Trichy.
- 6 The Inspector of Police,
Namagiripet Police Station.
- 7 The Public Prosecutor,
Madras High Court,
Chennai.

Cr1.RC.No.1140 of 2014

PMK(CO)
PM/17/05/2022