



BAIL SLIP

The Appellant herein/Accused Viz; Vijayakumar S/o.Raman was directed to be released on bail as per order of this court dated 25.06.2019 made in Crl.MP.No.8081 of 2019 in Crl.A.No.371 of 2019.

BAIL SLIP

The Appellant herein/Accused Viz; Kandhan, aged S/o.Kannappan was directed to be released on Bail as per order of this court dated 27.06.2019 made in Crl.MP.No.8311 of 2019 in Crl.A.No.385 of 2019.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY
Crl.A.Nos.371 and 385 of 2019

1.Vijayakumar ... Appellant/2nd Accused
in Crl.A.No.371 of 2019

2. Kandhan ...Appellant in Crl.A.No.385
of 2019

Versus

The State of Tamilnadu
State Rep. by,
its Inspector of Police,
B2, Esplanade Police Station,
(L & O), Chennai-104.
Crime No.3068 of 2012

... Respondent/Complainant
in both Crl.A's

Prayer : Criminal Appeals filed u/s. 374(2) of Cr.P.C to call for the records and set aside the judgement and order of conviction dated 03.06.2019 passed in the Sessions Case No.16 of 2016 on the file of the XIX Additional Sessions Court at Chennai.

For Appellants : Mr.Govind Chandrasekhar
in both Crl.Appeals

For Respondent : Mr.S.Vinoth Kumar
in both Crl.Appeals Government Advocate (Crl.Side)



COMMON JUDGMENT

These two Appeals arise out of the common judgment having been filed by the accused 1 and 2 and as such are taken up together and disposed of by means of this common judgment.

2. The appellants have laid these appeals against the judgement dated 03.06.2019, by the learned XIX Additional Sessions Judge, Chennai in S.C.No.16 of 2016, by which, they were convicted for the offence under Sections 341 and 333 of IPC and was sentenced to undergo a simple imprisonment for a period of one month and three years respectively and in addition, were imposed fine of Rs.10,000/- each for the alleged offences.

3. The case of the prosecution is that on 18.10.2012, PW1 namely, one Sivaji came to the Esplanade Police Station and lodged a complaint stating that, when he was on duty in the Transport Corporation bus, the law college students who used to occupy and create ruckus in the said bus, started picking up quarrel with him and they assaulted him, caught hold of his shirt and used a small piece of iron to hit him on his face and chest. On the said complaint, a case was registered in Crime No.3068 of 2012 for the aforestated offences. PW9 namely, one Chellappa, the Inspector of Police took up the investigation of the case and laid charge sheet and the same was taken on file as PRC.No.93 of 2015 and after issue of copies under Section 207 Cr.P.C, the case was committed to the Principal Sessions Court as per Section 209 Cr.P.C and the case was taken on file as S.C.No.16 of 2016 and thereafter was assigned to the trial Court.

4. Upon the charges being framed, the appellants denied the charges and stood trial. The prosecution examined the said driver as PW1, the conductor of the said vehicle as PW2 and one Purushothaman as PW3, one Gopalram as PW4 and the doctor, who gave treatment as PW5 and one Gandhi and Anjalai as PW6 and PW7 respectively and another doctor one Senthil Kumar as PW8 and the Investigating Officer was examined as PW9.

5. On behalf of the prosecution, the complaint lodged by PW1 was marked as Ex.P1, the observation Mahazar was marked as Ex.P2, the copy of the Accident Register was marked as Ex.P3, the wound certificate given by the doctor was marked as Ex.P4, the F.I.R as Ex.P5 and the observation sketch was marked as Ex.P6. Upon being questioned about the materials on evidence



under Section 313 Cr.P.C, the accused denied the same as false evidence and thereafter no evidence was let in by them. Thereafter, the Trial Court proceeded to hear the Public Prosecutor and the counsel for the accused, by judgement dated 03.06.2019, while acquitting the accused in respect of the other offences, convicted them for the offence under Sections 341 and 333 IPC.

6. Heard Mr.Govind Chandrasekhar, learned counsel for the appellants and Mr.S.Vinoth Kumar, learned Government Advocate (Crl.Side) appearing for the respondent.

7. After arguments on merits, especially after considering the evidence of PW1 and PW2 does not corroborate with medical evidence, the offence under Sections 341 & 333 of IPC does not stand proved, the learned counsel for the appellants/accused argued on the nature and circumstance of the allegations and considering the fact that the appellants/accused getting infested by a mob behaviour, being students, and not on account of any enmity whatsoever with PW1 and considering their age and the manner in which the offences were said to have been committed, would pray that this Court should consider the case to release the appellants/accused on good conduct under the Probation of Offenders Act instead of punishing them for the offences.

8. The learned Government Advocate (Crl.Side) appearing for the respondent would verify and confirm the fact that these appellants were students at the time of occurrence and the occurrence happened while they started returning home from college along with a group of other students and that they were not involved in any another crime and they have no bad antecedents except the present case and considering the future of the students, there is no other impediment to release them on admonition under the Probation of Offenders Act.

9. I have considered the rival submissions made by the learned counsel appearing for the appellants as well as the respondent and have perused the materials placed on record.

10. Considering the nature of allegations, the age of the accused persons and the fact that they have committed the offence being college students and the nature of injuries, while upholding the conviction of the appellants, I am of the view that instead of punishing them, they can be released under the provisions of the Probation of Offenders Act by admonishing them, since the petitioners have also shown remorse for their conduct. Accordingly, these Criminal Appeals are allowed setting



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aside the sentence imposed on the appellants on the following terms:

(i) The appellants are directed to execute a bond for good behaviour before the learned trial Court and to keep up the good behaviour for one year from the date of receipt of a copy of this judgment, and undertaking that they will appear before the Court to take the sentence in the event of violation of the bond;

(ii) Upon such execution, there shall be no further punishment as against the appellants;

(iii) It is made clear that the appellants/accused are released under Probation of Offenders Act, 1958 and therefore they shall not suffer any disqualification on account of this conviction as per Section 12 of the said Act. No Costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Anu
To

1.The XIX Additional Sessions Judge, Chennai

2.-do-through Principal Sessions Judge,
Chennai

3.VIIth Metropolitan Magistrate,
George Town
Chennai-08

4.-do-Through The Chief Metropolitan Magistratae,
Egmore Chennai

5.The Inspector of Police,
B2, Esplanade Police Station,
(L & O), Chennai-104.

6.The Public Prosecutor,
Madras High Court.



Copy to
The Section Officer
Criminal section
High Court, Madras

+1 cc to Mr.Govind Chandrasekar Advocate sr34424

Cr1.A.No.371 and 385 of 2019

aa22/06/2022