



Bail Slip

The Petitioner / Accused namely viz. Mr.Chandran, Male, Aged 62 years, S/o. Balaraman was directed to be released on bail vide Court order dated 31.07.2017 in CrI.M.P.No.9495 of 2017 in CrI.RC.No.1007 of 2017.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.RC.NO.1007 OF 2017

Chandran

...Petitioner / Appellant /
Accused

Vs.

State Rep.by
Inspector of Police
Kavarapettai Police Station
Thiruvallur District.
Crime No.264 of 2010

...Respondent / Respondent /
Complainant

Prayer : Criminal Revision filed under Sections 397 and 401 of the Code of Criminal Procedure, against the judgment of the Principal District Sessions Judge, Thiruvallur made in CrI.A.No.44 of 2016 dated 20.03.2017 modifying the offence and sentence and convicting under Section 323 and sentenced to undergo 3 months Simple Imprisonment and confirming the fine amount of Rs.500/- in default to undergo one week Simple Imprisonment confirming the conviction and sentence passed by the Judicial Magistrate No.I, Ponneri made in C.C.No.193 of 2010 by judgment dated 11.05.2016 convicting the petitioner under Section 325 IPC and sentencing him to undergo six months Simple Imprisonment and ordered to pay a fine of Rs.500/- in default to undergo one week Simple Imprisonment.

For Petitioner : Mr.T.R.Ravi

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



O R D E R

This Criminal Revision has been filed against the judgment of the Principal District Sessions Judge, Thiruvallur made in CrI.A.No.44 of 2016 dated 20.03.2017 modifying the offence and convicting petitioner under Section 323 IPC, sentencing him undergo 3 months Simple Imprisonment and confirming the fine amount of Rs.500/- in default to undergo one week Simple Imprisonment confirming the conviction with modification of the judgment of the Judicial Magistrate No.I, Ponneri made in C.C.No.193 of 2010 by judgment dated 11.05.2016 who convicted the petitioner under Section 325 IPC and sentencing him to undergo six months Simple Imprisonment and ordered to pay a fine of Rs.500/- in default to undergo one week Simple Imprisonment.

2. The petitioner/accused in C.C.No.193 of 2010 was charged during trial for offences under Sections 294(b), 506(ii) and 325 of IPC. The trial Court by judgment dated 11.05.2016 acquitted the petitioner for offences under Sections 294(b) and 506(ii) IPC and convicted him for offence under Section 325 IPC and sentenced him to undergo simple imprisonment for a period of six months and to pay a fine of Rs.500/-, in default, to undergo one week simple imprisonment. Aggrieved against the same, the petitioner preferred an appeal in CrI.A.No.44 of 2016 before the Principal District and Sessions Judge, Thiruvallur, and the Principal District and Sessions Court, by judgment dated 20.03.2017, altered the Section from 325 to 323 IPC and modified the sentence of the petitioner to undergo three months Simple Imprisonment.

3. The gist of the complaint is that on 22.04.2010 at about 7.15 a.m., while defacto complainant was returning from his agricultural land, due to previous enmity regarding a land dispute, he was scolded by the accused using obscene words. The accused attacked him using stone and caused grievous injury on his right hand. Thereafter, the defacto complainant got admitted in the hospital as inpatient. The defacto complainant lodged a complaint to the respondent police and on receipt of the complaint, a case in Crime No.264 of 2010 for offences under Sections 294(b), 324 and 506(ii) IPC registered. Later, it was altered to Sections 294(b), 325 and 506(ii) IPC and final report filed before the Judicial Magistrate No.I, Ponneri on 07.05.2010. During the trial, PW1 to PW8 were examined and Ex.P1 to Ex.P10 were marked.

4. The contention of the petitioner is that the defacto complainant was former Panchayat President with whom the petitioner had some dispute. PW1 in his evidence admits that nobody witnessed the assault on him. The complainant was taken to the Government Hospital, Ponneri through him Ex.P1, the



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complaint was marked. In his evidence, he admits that he affixed signature in the complaint Ex.P1, and the complaint was prepared in the Police Station. What is written in the complaint, he is not aware. He admits that there was previous enmity between the petitioner and the defacto complainant. He admits that PW2 is a close relative to him. He further submits that no mention about the presence of PW2 and PW3 in the complaint. PW2 admits the dispute between the petitioner and PW1. He also admits his relationship with PW1. He categorically states PW2 is not a witness to the occurrence. He further submitted that his statement was not recorded by the Police and no complaint was lodged by him. PW3 who claims he is not a relative of PW1. He admits that he is his neighbour who projected to be present in the scene of occurrence. He further submitted that these three witnesses are projected as eye witnesses. PW1 does not state the presence of PW2 & PW3 at the time of assault. He further submitted that PW4 not supported the case of the prosecution. PW5 and PW6 are the observation mahazar and rough sketch witnesses. PW5 admits that on the request of the Police, he had signed the observation mahazar and he is not aware of its content. Likewise, PW6 states that he only affixed his signature without knowing the contents. PW7 is the Causality Doctor, who in his evidence states that on 22.04.2010 when he was on duty, PW1 came there, got examined. Later he gave wound certificate Ex.P5. PW7 is not aware of further treatment undergone by PW1 on various dates and none of medical records produced. Further PW7 admits that a person, if slips and falls down, such injury is possible. PW8 is the Investigating Officer, who states that on registration of the case, he visited the scene of occurrence recorded the statements, prepared mahazars and rough sketch. He admits in his evidence that there is no mention about the presence of PW2 & PW3 at the time of alleged assault. Now, only evidence available is that of PW1, who has personal motive over land dispute with the petitioner. The medical records not completely produced in this case. Thus findings of the Lower Court and the Lower Appellate Court is without proper reasoning and sought for acquittal.

5. The learned Additional Public Prosecutor submitted that on the receipt of the complaint from PW1, FIR in this case came to be registered. Thereafter, the Investigating Officer visited the hospital, enquired PW1, recorded the statement and proceeded to the scene of occurrence, prepared the observation mahazar and rough sketch and examined the eye witnesses present in the scene of occurrence. After examination of Doctor who treated PW1 received the medical records and filed a final report. During investigation, Section was altered by alteration report and the accused arrested in this case. Thereafter, on completion of investigation, charge sheet filed, the trial Court on examination of the witnesses, found petitioner guilty and



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convicted him. The Lower Appellate Court confirmed the conviction and modified the sentence. In this case, PW1 is the injured witness, PW2 & PW3 are the eye witnesses. PW7 is the Doctor, who confirms the injury sustained by PW1. Hence, he opposed this petition.

6. Considering the submission and on perusal of the materials, it is seen that PW1 who is injured in this case admitted that he has some previous enmity against the petitioner. Further admitted that the complaint was written in the Police Station and he affixed his signature alone. The Defact complainant/PW1 does not know about the contents of the complaint. The presence of PW2 & PW3 in the scene of occurrence is highly doubtful. Both are relative and known persons to PW1. Further, the witnesses admitted that they have signed mahazar, without knowing its contents. Apart from PW1, no other person present in the scene of occurrence. The Investigating Officer admits that no eye witnesses was examined in this case. It is suggested by the defence that due to the slip and fall such injury is possible, which is confirmed by PW7, Doctor. In this case, AR medical record produced is incomplete. The wound certificate issued by one Dr.Bharkavi is Ex.P8 and the said Doctor has not examined in this case as witness. The wound certificate not marked through the Doctor. PW7 is the Casualty Doctor who had initially examined PW1 on 22.04.2010. Admittedly in this case, X-ray or any other records were not produced.

7. In view of admission of PW1 that complaint not written by him and it was prepared in the police station, the fundamental and foundational fact in this case are become doubtful. Thus the prosecution has failed to prove the case against the petitioner beyond all reasonable doubts. In view of the same, this Court is inclined to allow this revision and acquit the petitioner from the charges.

8. This Criminal Revision Petition is allowed, setting aside the judgments of conviction and sentence passed by both the Courts below and the accused is acquitted from all the charges. Bail bond, if, any executed shall stands cancelled. Fine amounts if any, paid shall be refunded.

Sd/-

Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

dna



To

1.The Principal District Sessions Judge,
Thiruvallur.

2.The Judicial Magistrate No.I,
Ponneri.

+1cc to M/s.T.R.Ravi, Advocate Sr.No.16980

Cr1.RC.No.1007 of 2017

SKM(CO)
RVM(08/04/2022)