



BAIL SLIP

The Appellant herein/Accused 2 & 3 namely D.Nagamuthu and S.Vinith (in C.C.No.8 of 2014 on the file of Chief Judicial Magistrate, Erode) was directed to be released on bail as per order of this Court dated 14.03.2017 and made in Crl.MP.No.3920 of 2017 in Crl.RC.No.421 of 2017.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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| RESERVED ON : 15.06.2022 | PRONOUNCED ON : 21.06.2022 |
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CORAM::

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

CRIMINAL REVISION CASE NO.421 OF 2017

1. D.Nagamuthu (M/23),  
S/o.Dharmalingam,  
Residing at Door No.134,  
Sakthi Nagar,  
Manickampalayam,  
Erode.
2. S.Vinith (M/32),  
S/o.Subramani,  
Residing at Thendral Nagar,  
Manickampalayam Road,  
Erode.

... Petitioners/Accused 2 & 3

/versus/

The State Rep. by,  
The Inspector of Police,  
North Police Station,  
Erode District.  
(Crime No.826 of 2013)

... Respondent/Complainant

Prayer:

Criminal Revision Petition is filed under Section 397 read with 401 of Cr.P.C., to set aside the order passed by the Principal District Judge, Erode, in C.A.No.193 of 2016 dated 22.12.2016 confirming the Judgment passed by the Chief Judicial Magistrate, Erode, in C.C.No.8 of 2014 dated 22.10.2016 acquit the petitioners/accused and allow the above Crl.R.C., as the charges against them are disproved.



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For Petitioners : Mr.B.Singaravelu.  
For Respondent : Mr.N.S.Suganthan,  
Government Advocate (Crl.Side)

O R D E R

The petitioners were arrayed as accused 2 & 3 in C.C.No.8 of 2014 on the file of Chief Judicial Magistrate, Erode and tried along with other accused for the alleged offence under Sections 147, 148, 294(b), 323, 324 & 506(ii) of I.P.C.

2. The Trial Court held these two petitioners guilty of offence under Section 324 of I.P.C and sentenced them to undergo 6 months R.I.

3. Aggrieved by the said conviction and sentence, they preferred appeal in C.A. No. 193 of 2016 and same was dismissed.

4. Against the concurrent finding of the Courts below, the present revision petition is filed on the ground that the trial Court failed to consider the inordinate delay in registering the F.I.R and lack of corroboration to the evidence of victim witness (P.W.1).

5. The brief facts of the prosecution case is that, on 28.11.2013, the defacto complainant Jagadeesan went to the house of the 6<sup>th</sup> accused Leelavathi with whom he had money transaction in connection with fridge sold by him to her. Under the pretext of settling the dues, the defacto complainant was called to the house of the 6<sup>th</sup> accused and he went to collect money quarrel erupted and he was attacked severally by seven persons. As far as the petitioners/accused 2 & 3 are concerned, specific overt act attributed against them for causing grievous hurt using deadly weapon.

6. For the alleged incident which took place on 28.11.2013 at about 5.00 p.m.. The F.I.R was registered on 29.11.2013 in crime No.826 of 2013 for offence under Section 147, 148, 294(b), 323, 324, 506(ii) of I.P.C. Later, in the course of investigation, charges were altered for offences under Section 147, 148 294(b), 323, 326, 506 (ii) of I.P.C.



7. Before the trial Court, the prosecution to prove the charge examined the defacto complainant Jagadeesan as P.W.1, the eye witness Nirmala (P.W.2), Muthamizhselvan (P.W.3) and Muralidharan (P.W.4).

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8. Regarding the injury and admission of the victim witness (P.W.1) in the hospital, the prosecution has examined Dr.Vijaya Kumar (P.W.6), who treated him at Nalli Hospital and gave wound certificate which is marked as Ex.P.4. Dr.Anantha Kumar (P.W.7), causality doctor attached to Erode Headquarters Hospital, saw the injured and provided first aid, and he gave the Accident Register (Ex.P.5). P.W.8 & P.W.9 are the Police Officials who registered the F.I.R and investigated the case.

9. Based on the oral evidence of P.W.1 to P.W.9, the documents relied by the prosecution which were Ex.P.1 to Ex.P.9 and M.O.1 the iron rod. The Trial Court found that the charge under Section 324 of I.P.C against the petitioner who were arrayed as Accused A2 and A3 is made out. For the said offence under Section 324 of I.P.C, they were convicted and sentenced to undergo 6 months R.I. In respect of other charges, they were acquitted. So far as the remaining accused are concerned, the trial Court found the accused 6 & 7 guilty of offence under Section 323 of I.P.C and sentenced to pay fine of Rs.1000/- in default of 3 months S.I. While A6 & A7 paid the fine amount and suffered the sentence. A2 & A3 convicted for offence under Section 324 of I.P.C preferred appeal before the District and Sessions Judge, Erode, in C.A.No.193 of 2016 and same was dismissed on 22.12.2016. Against the concurrent finding, this criminal revision is filed.

10. The first point canvassed before this Court by way of revision as mentioned above is that, the delay in filing the F.I.R was not properly explained.

11. From the evidence, this Court finds that as per the complaint (Ex.P.1), the incident occurred on 28.11.2013 at 5.00 p.m., inside the residence of the 6<sup>th</sup> accused. P.W.1 was taken to Nalli Hospital, Erode by P.W.2 Nirmal in an auto. P.W.7 Dr.Anandha Kumar, had deposed that, P.W.1 (Jagadeesan) was brought to the Hospital by P.W.2 (Nirmal) with the following injuries.

(1).Severe contusion around right eye Sub-conjunctival haemorrhage;



- (2). Linear multiple reddish contusions on the back;
- (3). Contusions front of the chest on both sides;
- (4). Abrasion 3 x 2 cm x 4 x 3 cm back of leg (Ankle joint);
- (5). Abrasion 2 x 1 cm on the lower lip and
- (6) Abrasion 2 x 2 cm on left cheek.

12. P.W.7 Dr.Anandha Kumar gave first aid against advice, the patient left the hospital.

13. From the evidence of P.W.6 Dr.Vijaya Kumar, it is proved that, on 28.11.2013 at about 11.00 p.m., the injured was brought to the Erode Government Hospital by P.W.3 Muthamizhselvan (P.W.7) gave intimation to the police and treated the victim. The following injuries were found on the body of the victim.

- (i). Contusion of 2 x 2 cm on the right upper eye.
- (ii). Abrasion 2 x 2 cm on the left cheek;
- (iii). Multiple contusions on the both side of back;
- (iv). He expressed he has pain on the right chest;
- (v). Abrasion 2 x 2 cm on the lower lip and
- (vi). Abrasion 3 x 2 cm x 4 x 3 cm on the both side of back of leg.

14. This fact regarding intimation about the medico-legal case and receipt of the same been spoken by Arivendhiran (P.W.8) Head Constable attached to Erode North Police Station. He, on receipt of the information has gone to Nalli Hospital on 29.11.2013 recorded the statement of the victim and had registered the F.I.R in crime No.826 of 2013. Therefore, the prosecution has cogently proved that the sequence of events which would clearly indicate that there was no delay in registering F.I.R., to suspect any embellishment. Hence, the correctness of the finding of the Courts below in this regard is upheld.

15. The 2<sup>nd</sup> point raised in the revision petition is that, there was no corroboration to the evidence of injured witness P.W.1. The wound certificate and the specific overt act attributed to A2 and A3 by the injured witness, and the evidence of P.W.2 and P.W.3 lend sufficient corroboration. The entry in Accident Register (Ex.P.5) which states that the injured



attacked 20 unknown persons cannot be given due weightage to over ride other evidence in view of the fact that, P.W.1 was brought to the hospital in semi conscious state. In the course of investigation, the prosecution has zero down 7 assailants and on appreciation of the evidence, the Courts below has found only 4 out of 7 alone are guilty for causing hurt to the victim P.W.1. Out of which accused 2 & 3 convicted for using weapon to cause injury.

16. In the said circumstances, this Court finds that the judgment of the Courts below and the sentence imposed are based on proven facts, there is no illegality or perversity in the orders of the Courts below. Hence, this Criminal Revision Petition is dismissed. The trial Court is directed to secure the petitioners/accused and confine to the prison to undergo the remaining period of imprisonment.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

bsm

To

1. The Principal District Judge, Erode.
2. The Chief Judicial Magistrate, Erode.
3. The Inspector of Police,  
North Police Station, Erode District.
4. The Public Prosecutor,  
High Court, Madras.

Copy To

The Section Officer,  
Criminal Section, High Court,  
Madras.

+1cc to Mr.B.Singaravelu, Advocate, S.R.No.37271

Cr1.R.C.No.421 of 2017

SV(CO)  
PM/04/07/2022