



BAIL SLIP

The Petitioner / Accused E.Krsihnamoorthy, male, aged 44 years S/o.Egan was directed to be released on Bail vide order dated 20.03.2017 in Crl.M.P.No.4163 of 2017 in Crl.R.C.No.466 of 2017 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2022

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

CRL.R.C.NO.466 OF 2017

E.Krishnamoorthy

...Petitioner / Accused-1

Vs

State rep. by
The Inspector of Police,
Arni Taluk Police Station,
Thiruvannamalai District.
(Crime No.429 of 2005)

...Respondent

PRAYER : This Criminal Revision Case is filed under Section 397 r/w.401 Cr.P.C., against the order of conviction and sentence passed by the learned Sessions Judge, Tiruvannamalai, dated 15.09.2016 made in C.A.No.59 of 2006 confirming the conviction and sentence passed by the learned Judicial Magistrate, Arni in C.C.No.265 of 2005, dated 26.05.2006.

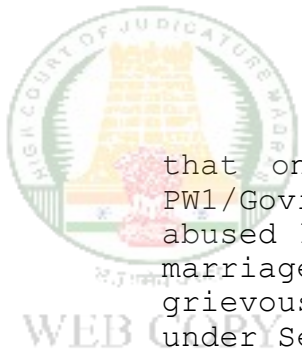
For Petitioner : Mr.R.Vivekanandan
for Mr.A.Panneer Chelvam

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Case has been filed challenging the judgment of the learned Sessions Judge, Tiruvannamalai, dated 15.09.2016 made in C.A.No.59 of 2006 confirming the judgment of the learned Judicial Magistrate, Arni, dated 26.05.2006 made in C.C.No.265 of 2005.

2. The revision petitioner before this Court is the 1st accused before the trial Court. The case of the prosecution is



that on 10.06.2005 at about 11 a.m., the accused restrained PW1/Govindammal, while she was coming in front of his house and abused her by telling that she was instrumental in stopping his marriage and attacked her with iron pipe and thereby caused grievous injuries on her. So, he was charged for the offence under Section 326 IPC.

3. On the complaint given by PW1, on 10.06.2005, PW8-Special Sub-Inspector of Police Sivanandam registered the case in Crime No.429 of 2005 of Arni Rural Police Station under Sections 341 and 324 IPC and prepared the First Information Report. He took up the case for investigation and went to the place of occurrence and prepared the Observation Mahazar and Rough Sketch in the presence of witnesses and examined the victim and the other witnesses and recorded the confession statement of the accused in the presence of witnesses. He further enquired the doctor who had treated PW1 and got his statement and wound certificate. After completing the investigation, he filed the charge sheet against the 1st accused under Section 326 IPC against the accused 2 and 3 under Section 341 IPC.

4. After the case was taken on file and on being satisfied with the materials available on record, the learned Trial Judge framed the charges against the 1st accused for the offence under Section 326 IPC and the accused 2 and 3 for the offences under Section 341 IPC and questioned. Since the accused pleaded innocence and claimed to be tried, the trial was conducted.

5. During the course of trial, on the side of the complainant eight witnesses were examined as PW1 to PW8 and five documents were marked as Exs.P1 to P5. On the side of the defence no witness was examined and no document was marked.

6. After the conclusion of trial and on considering the evidence available on record, the learned trial Judge found the 1st accused guilty for the offence under Section 326 IPC and convicted and sentenced him as follows:

Conviction	Sentence
326 IPC	To undergo one year Rigorous Imprisonment and imposed a fine of Rs.3,000/- and in default to pay a fine of Rs.3,000/-, to undergo three months Simple Imprisonment.

7. Aggrieved over that the petitioner/accused preferred an appeal before the learned Sessions Judge, Tiruvannamalai in C.A.No.59 of 2006 and the same was also dismissed on 15.09.2016 by confirming the judgment of the trial Court. Aggrieved over



the reason to get his marriage stopped. PW1 has also stated in her evidence that the accused and his parents had doubt that she was stopping all the alliance proposed for the accused. The evidence of the injured witness and the evidence of the doctor tally well in respect of the manner in which PW1 was attacked. Since the evidence on record is more than clear to convict the accused for the offence under Section 326 IPC, I find no factual or legal infirmity in the judgment of the Courts below and it does not require any interference.

14. However, it is submitted by the learned counsel for the petitioner that the accused was very young at the time of occurrence and he had thought that the accused alone is the reason to stop his marriage; he was not a habitual offender and he is the first offender. It is further submitted that the accused got married and he has two children and considering his age and other circumstances of the case, some lenience should be shown in the matter of punishment.

15. The occurrence is said to have occurred on 10.06.2005. Since the present age of the accused is 44, he would have been 25 years at the time of occurrence. It is true that the accused has not involved in any other offence, prior to or subsequent to the occurrence. Though there is no disagreement with regard to the above facts, the injured is a woman and she had lost four tooth on her upper jaw and three tooth on her lower jaw. The disappearance caused to the face of the victim because of the occurrence is something irreparable. Since the offence proved is under Section 326 IPC, is punishable with imprisonment for life, or the accused cannot be given the benefits of 360 Cr.P.C. Also. The circumstances of the case would show that the accused had acted in an impulsive manner by imagining that his marriage was being stopped only by PW1. Considering the submission made by the learned counsel for the petitioner and other circumstances, I feel that the punishment should be reduced to some extent.

16. In the result, this Criminal Revision Case is partly allowed and the judgment of the learned Sessions Judge, Tiruvannamalai, dated 15.09.2016 made in C.A.No.59 of 2006 is modified to the effect that the accused is convicted and sentenced to undergo four months Rigorous Imprisonment for the offence under Section 326 IPC along with fine of Rs.10,000/-. The fine amount already paid may be set off against the fine amount now imposed.

17. The learned counsel for the petitioner submitted that the accused is an agricultural coolie, and he does not have any wherewithals to pay as compensation to the victim. Hence, the injuries sustained by PW1 needs to be compensated under the Victim Compensation Scheme. PW1 belongs to lower strata of the



society and it would have been difficult for her to treat her injuries. Being a woman, the injury sustained by her would have left cosmetic concern and agony in her mind. She was also relatively young at the time of occurrence and she would have needed to do dental implants, etc., But, the Courts below have not considered the suitability to award compensation in this case to the injured. Hence, I deem it fit to award a sum of Rs.1,00,000/- as compensation to be payable to PW1 by the Government, from the victim compensation Scheme, within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

ssn

To

- 1.The Sessions Judge,
Tiruvannamalai.
- 2.The Judicial Magistrate,
Arni.
- 3.The Chief Judicial Magistrate,
Tiruvannamalai.
- 4.The Secretary, Finance Department,
Government of Tamil Nadu,
Fort St.George, Chennai-9.
- 5.The Director,
Social Welfare and Women Empowerment Department,
Secretariat, Chennai-9.
- 6.The Inspector of Police,
Arni Taluk Police Station,
Thiruvannamalai District.
- 7.The Public Prosecutor,
High Court of Madras,
Chennai.

Cr1.R.C.No.466 of 2017

MT(CO)
RVM(01/03/2022)