



BAIL SLIP

The Petitioner/Accused Namely, Balu @ Balachandar S/o.Kolanchi was directed to be released on bail vide order dated 12.05.2017 and made in Crl.MP.No.6586/2017 in Crl.R.C.No.686 of 2017 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 25.01.2022

CORAM :

THE HONOURABLE Ms. JUSTICE R.N.MANJULA
Crl.R.C.No.686 of 2017

Balu @ Balachandar

.. Petitioner/accused

Vs.

The State rep.by
Station House Officer,
Virudhachalam Police Station,
Cuddalore District.
Crime No.499/2008

.. Respondent

PRAYER : Criminal Revision Case has been filed under sections 397 read with 401 of Criminal Procedure Code to call for the records and set aside the Judgment in C.A.No.84 of 2016 dated 28.04.2017 on the file of the III Addl.District and Sessions Judge, Cuddalore at Vridhachalam.

For Petitioner : Mr.Anburajneelunikki

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

O R D E R

This Criminal Revision Case has been preferred challenging the judgment of the learned III Additional District and Sessions Judge, Cuddalore at Vridhachalam, made in C.A.No.84 of 2016 dated 28.04.2017.

2. The revision petitioner is a sole accused before the trial Court. The case of the prosecution is that on 27.10.2008 at about 7.30 p.m., when the son of the defacto complainant was in the shop, the accused abused him in filthy language and threatened him by saying that he did not get solatium from the Non-Government Organisation and had threw a blue metal on the eyes of PW.2 and thereby caused injury on his left eye. He also threatened him with dire consequence. hence the accused was charged for the offences under Sections



294(b), 324 and 506(ii) IPC. On the complaint given by PW.1 Manokaran/defacto complainant, a case was registered by Virudhachalam police station in Crime No, 499 of 2008 for the offences under Sections 294(b), 324 and 506(ii) IPC. The FIR was prepared by PW.6-Mariyappan/Head Constable. After registering the case, PW.6 went to the place of occurrence, enquired some of the witnesses and prepared the Observation Mahazar in the presence of witnesses and thereafter handed over the file for further investigation to PW.9. PW.9-Amalraj/ the Sub Inspector of Police continued the investigation and enquired the witnesses. The accused was already arrested by PW.6 and sent him to remand. PW.9 enquired the doctor who treated the injured and obtained wound certificate. After completing the investigation, the charge sheet was filed against the accused under Sections 294(b), 326 and 506(ii) IPC.

3. On being satisfied with the materials available on record, the accused was questioned for the offence under Sections 294(b), 326 and 506(ii) IPC. The accused pleaded innocence and claimed to be tried. Accordingly, the trial was conducted.

4. During the course of trial, on the side of the prosecution, nine (9) witnesses were examined as PW.1 to PW.9 and six (6) documents have been marked as Ex.P1 to Ex.P6. When the incriminating evidence available on record was put to the accused under Section 313 Cr.P.C., he denied the same. On the side of accused no witness was examined and no document has been marked.

5. After the conclusion of the trial and on consideration of the materials available on record, the learned trial Judge found the accused guilty for the offence under Section 324 IPC and convicted and sentenced him as follows:

Rank of the accused	Charges	Findings	Punishment
Sole accused	U/s 324 IPC	Guilty	Convicted and sentence to undergo Simple Imprisonment for six months
	U/s.294(b) and 506 (ii) IPC	Not guilty	Acquitted

6. The appeal preferred by the accused in C.A.No.84 of 2016 before the III Additional District and Session Judge, Cuddalore and was dismissed in part and the sentence was modified from 6 months S.I to 3 months S.I. Aggrieved over that, the accused has preferred this criminal revision case.



7. Heard the learned counsel for the revision petitioner/ accused and the learned Government Advocate (Crl.side) for the State.

8. The learned counsel for the revision petitioner/accused submitted that the act of the accused would only fall under sudden provocation, for which, the accused ought to have been found guilty for the offence under Section 334 IPC; even according to the evidence of PW.2, who is the injured, he is capable of driving his car. Hence it is false to say that he had lost his sight on his left eye; lot of contradictions in the evidence of the prosecution witnesses and that was omitted to be appreciated by the Courts below, hence the accused should be acquitted.

9. The learned Government Advocate (Crl.side) for the State submitted that the evidence of the injured witnesses and the evidence of the doctor would go to show that the accused had voluntarily hurt PW.2 by throwing stones on his eye; the lower Court had properly appreciated the evidence on record and convicted the accused. Hence there is no scope for interference.

10. Points for consideration:

Whether the judgement of the appellate court suffer from any factual or legal infirmity so as to warrant my interference?

11. The case was registered based on the complaint given by the father of the injured viz., Manokaran. The complainant was examined as PW.1 and he has stated that his son is in-charge of the Non-Governmental Organisation which is involved in the issues relating to women. The accused approached PW.2 to help him to getting financial relief for his wife who was pregnant. On the date of occurrence the accused came to the shop of PW.2 and enquired PW.2 about the sanction of financial relief. PW.2, who is the injured, has stated in his evidence that the accused abused him for not sanctioning the financial relief to his pregnant wife; and he did not listen to his reply that it could be given only after proper verification. The accused without listening to PW.2 had thrown the blue metal on him and that caused injury over his left eye. The doctor who treated PW.2 has also noticed the injury on the left eye of PW.2. The wound certificate would also show that PW.2 had taken treatment at Arvind Eye Hospital, Pondicherry for the injury on his eyes.

12. Basing on the treatment and findings of the ophthalmological examination, the doctor / PW.8 has stated that the injury caused on the left eye was grievous in nature. PW.7 / Dr. Sivanandam, who treated PW.2 at Aravind Eye Hospital, Pondicherry, has stated in his evidence that surgery



was performed on the left eye of PW.2. However his evidence does not state anything about the loss of sight. The learned trial Judge had rejected the certificate of PW.8 /doctor that the injury sustained by PW.2 was grievous in nature. It is because of the reasons that PW.8 /doctor is not an eye specialist. So the learned trial Judge had proceeded to find the accused guilty for the offence under Section 324 IPC alone. The evidence was re-appreciated by the appellate Court and the accused was found guilty for the offence under Section 324 IPC. The appreciation of evidence and the background of the evidence as discussed above by the Courts below does not suffer from any factual or legal infirmity.

13. In order to punish a person for the offence under Section 334 IPC, the act of causing hurt on some one should have been done due to grave and sudden provocation. In the case on hand, the evidence of the prosecution witness does not reveal that the accused was provoked by PW.2 only in view of which he threw blue stones on his eyes.

14. The learned counsel for the revision petitioner drew the attention of this Court to the evidence of PW.4 who is an independent witness. PW.4 has simply stated that he saw the accused and PW.2 shouting at each other and during that course, the accused injured PW.2. The above evidence does not disclose that the accused was provoked by PW.2. In fact the accused who came and met PW.2 and enquired him about the progress of his application to sanction financial assistance for his pregnant wife through the NGO of PW.2. Hence there is no basis to find the accused guilty for the offence under Section 334 IPC instead of 324 IPC. Hence I do not find any merit in the Criminal Revision Case filed by the petitioner/accused.

15. In the result, this Criminal Revision Case is dismissed and the judgment of the learned III Additional District and Sessions Judge, Cuddalore at Vridhachalam, dated 28.04.2017 passed in C.A.No.84 of 2016 is confirmed. The period of sentence already undergone by the accused shall be set off under Section 428 of Cr.P.C.

16. The trial Court is directed to issue NBW to secure the petitioner/accused and commit him to prison to undergo the remaining period of sentence.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar



To

1. The III Addl. District and Sessions Judge,
Cuddalore at Vridhachalam.

WEB COPY

2. The Judicial Magistrate No. I, Vridhachalam.

3. Do through the Chief Judicial Magistrate, Cuddalore District.
(for Information)

4. The Station House Officer,
Virudhachalam Police Station,
Cuddalore District.

5. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr. R. Sethuvarayar, Advocate Sr. NO. 4362

Crl.R.C.No.686 of 2017

mt (CO)

A.SK(23.02.2022)