



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 27.09.2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.R.C.(MD).No.893 of 2022

1.Karunakaran

2.Ramakrishnan

.. Petitioners/Petitioners 1 & 2/
Appellants 1 & 2/Accused 1 & 2

Vs.

State rep by,
The Inspector of Police,
Kattanoor Police Station,
Virudhunagar District.
(Crime No.28 of 2016)

.. Respondent/Respondent/
Respondent/Complainant

Prayer:- Criminal Revision petition is filed under Section 397 r/w 401 Cr.P.C, to call for the records pertaining to the order dated 03.09.2022 in Crl.M.P.No.2491 of 2021 in CA.No.92 of 2022 on the file of the learned Principal District Judge and Sessions Judge, Virudhunagar District at Srivilliputtur, and set aside the same insofar as the petitioners/Accused NO.1&2 alone, consequently pleaded to suspend the sentence imposed against the petitioners/Accused No.1&2 in S.C.No.78 of 2018 on the file of Assistant Sessions Judge, Aruppukkottai, dated 03.09.2022 and release the petitioners on bail.



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For Petitioners : Mr.S.Balamurugan

For Respondent : Mr.S.S.Madhavan,
Government Advocate (Crl.Side)

ORDER

This Criminal Revision case has been preferred against the order that has been passed by the learned Principal District Judge and Sessions Judge, Virudhunagar District at Srivilliputtur, in Crl.M.P.No.2491 of 2022 in Crl.A.No.92 of 2022, dated 03.09.2022 and consequently, suspend the sentence imposed against the petitioners/Accused No.1&2 in S.C.No.78 of 2018 on the file of Assistant Sessions Judge, Aruppukkottai, dated 03.09.2022, and release the petitioners on bail.

2.The petitioners were facing charges under Sections 341, 294(b) and 307 r/w 34 , and 506(i) IPC before the Trial Court. At the conclusion of trial, the Trial Court found that that charges against all the accused persons were proved beyond all reasonable doubts and accordingly, convicted the petitioners for the offence under Section 307 IPC r/w 34 IPC and sentenced them to undergo Rigorous Imprisonment for a period of 7 years and to pay a fine of Rs.2,000/- each in default to undergo Simple imprisonment for a period of 3 months and convicted them for the offence under Section 341 IPC and sentenced them to



undergo Simple Imprisonment for a period of 1 month and to pay a fine of Rs.100/- each in default to undergo Simple Imprisonment for a period of 1 week. Similarly the other accused persons were also convicted for the offence under Section 307 IPC r/w 34 IPC and sentenced them to undergo Rigorous Imprisonment for a period of 7 years and to pay a fine of Rs.2,000/- each in default to undergo Simple imprisonment for a period of 3 months. The above said judgment was rendered by the learned Assistant Sessions Judge, Assistant Sessions Court, Aruppukkottai, in S.C.No.78 of 2018, dated 02.08.2022.

3. Against the above said conviction and sentence, all the 4 accused persons filed an appeal. Pending appeal, all the 4 accused persons filed a petition to suspend the sentence. The Appellate Court was of the view that only limited role alleged have been played by the accused No.2 & 3. So, they were granted suspension of sentence and enlarged on bail. Insofar as the accused No.1 & 2/petitioners herein is concerned, considering the seriousness of the allegation, it was dismissed. Against which, accused No.1 & 2/petitioners herein preferred this revision.

4. Heard both sides.



5.The learned counsel for the petitioner would submit that there are many contradiction between the evidence of P.W.1 & P.W.2 regarding the manner of occurrence itself. The injured was admitted in the Government Hospital. Thereafter, he was taken to the other hospital. At that time, he was found with sutured injury. At the time of giving complaint, the defacto complainant was not in conscious stage and only one injury alleged have been caused.

6.Per contra, the learned Government Advocate (Crl.Side) would submit that it is a case of retaliation. The accused Karunakaran and Ramakrishnan were brothers. One Deivendran, who is the brother of the above said Karunakaran and Ramakrishnan were alleged have been murdered by P.W.1. Later, that case was ended in acquittal. Only after the above said acquittal, the present occurrence said to have taken place. The weapon used for attack is wooden log. Except P.W.1, all other eye-witness turned hostile. But, injury appears to be serious and grievous in nature.

7.But, however, there were 3 injuries. The first injury on the fore head of the defacto complainant. It appears to be grievous in nature.

Finding that it is a case of retaliation, the petition was dismissed by the



Appellate Court. But, during the argument, it is brought to the notice of this Court that in the murder case, the accused have been acquitted since because of the first accused was a mentally ill person. Over which, no appeal has been preferred either by the police or by the defacto complainant.

8.The learned counsel for the petitioners would submit that only on the above said ground, acquittal has been ended. So, it need not be taken into account to see that it is a case of retaliation.

9.Considering the nature of injury that has been caused, period of incarceration and taking into consideration the reason for acquittal in the murder case, the revision is liable to be allowed.

10.In the result, the order passed by the learned Principal District Judge and Sessions Judge, Virudhunagar District at Srivilliputtur, in CrI.M.P.No.2491 of 2022 in CrI.A.No.92 of 2022, dated 03.09.2022, is hereby **set aside** and this Criminal Revision Case is **allowed**. The substantive sentence imposed against the petitioners in S.C.No.78 of 2018 on the file of Assistant Sessions Judge, Aruppukkottai, dated 03.09.2022, is suspended and the petitioners are directed to be enlarged

<https://www.mhc.tn.gov.in/judis1> on bail on condition that the petitioners shall execute a bond for a sum of



Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the Assistant Sessions Judge, Aruppukkottai, and on further condition that the petitioners shall appear before the said Court **once in a week at 10.30 a.m.**

27.09.2022

Internet : Yes/No
Internet : Yes/No
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Note : Issue order copy on 29.09.2022

To

- 1.The Principal District Judge and Sessions Judge,
Virudhunagar District at Srivilliputtur.
- 2.The Assistant Sessions Judge,
Aruppukkottai.
- 3.The Inspector of Police,
South Police Station,
Tuticorin,
Tuticorin District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVA, J.

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