



Bail Slip

The Appellant/Sole Accused viz., L.Muthuvalavan, S/o.Lakshmanan was directed to be released on Bail by order of this Court dated 19.12.2017 and made in Crl MP(MD).11474/2017 in Crl Rc(MD).938 of 2017.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 06.12.2021

Delivered on : 20.01.2022

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.938 of 2017

L.Muthuvalavan ... Petitioner/Appellant

Vs.

The State rep. By its
Inspector of Police,
Usilampatti Taluk Police Station,
Madurai District.
(Crime No.309 / 2010)

... Respondent/Respondent

Prayer : This Revision Case is filed under Section 397 (ii) r/w. Section 401 of Cr.P.C., to call for the records relating to the judgment, dated 31.10.2017, made in Crl.A.No.39 of 2017 on the file of the 1st Additional Sessions Judge, Madurai, confirming the judgment dated 05.01.2017 made in S.C.No.39 of 2012 on the file of the III Additional Assistant Sessions Judge, Usilampatti Camp, Madurai and to set aside the same.

For Petitioner : Mr.S.Vinoth, legal aid counsel

For Respondent : Mr.K.Sanjay Gandhi
Government Advocate

ORDER

This Criminal Revision has been filed to call for the records relating to the judgment, dated 31.10.2017, made in Crl.A.No.39 of 2017 on the file of the 1st Additional Sessions Judge, Madurai, confirming the judgment dated 05.01.2017 made in S.C.No.39 of 2012 on the file of the III Additional Assistant Sessions Judge, Usilampatti Camp, Madurai and to set aside the same.

2. The case against the petitioner is that on 29.08.2010, at about 14.15 hours, one witness-Nagarathinam was sitting in a cot in

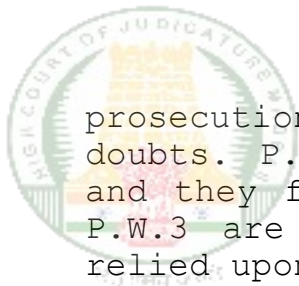


the cattle shed, the petitioner with a motive to murder the victim has entered the premises with Aruval and try to attack her neck. Since the victim tried to prevent the same, she got injury on the left hand palm. Again the petitioner assaulted the victim and caused injury on the left hand elbow. Again the petitioner tried to murder the victim when she tried to prevent the same, the petitioner severed the upper right hand and criminally intimidated her. A case in Crime No.309 of 2010, under Section 452, 307 and 506 (ii) was registered against the petitioner. The case was taken on file as S.C.No.39 of 2012 on the file of the III Additional Assistant Sessions Court, Usilampatti Camp, Madurai. The trial Court convicted the petitioner under Section 307 and sentenced him to undergo seven years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default to undergo a further period of six months simple imprisonment. The trial Court acquitted the petitioner under Sections 452 and 506 (ii) I.P.C. Against the judgment, the petitioner preferred an appeal in Crl.A.No. 39 of 2017, before the 1st Additional Sessions Judge, Madurai. That Appeal was dismissed and the order of the lower Court was confirmed in the Appeal. Against the same, the petitioner has approached this Court by way of this Revision.

3. On the side of the revision petitioner, it is stated that P.W.1 is the father-in-law of the accused. P.W.2 is the mother-in-law of the accused. P.W. 3 is the brother-in-law. All of them are interested witnesses. Due to some misunderstanding, the wife went to the house of her parents. The petitioner / accused wants to bring her back home. He objected the wife to join the Police Department. P.W.3 was not at all present in the place of occurrence. P.W.1 and P.W.2 have admitted that the petitioner and his wife lived peacefully. P.W.9 and P.W.10 have deposed that there is a possibility of the injury to have been caused by the falling of the roof of the cattle shed. Due to her illegal contact with some body, the wife of the petitioner committed suicide. The petitioner has to take care of his children, who are in his custody and prayed the sentence to be set aside.

4. On the side of the prosecution, it is stated that there is a concurrent findings by both the Courts below. The evidence of P.W.1 to P.W.3 corroborated each other. Due to some family dispute, the deceased left the matrimonial home and she was residing in the house of her parents. The petitioner came to that house and assaulted P.W.2 and injured her left hand fingers. Again, she assaulted P.W.2 and caused fracture in the left hand, again, he assaulted P.W.2, thereby, the right hand of P.W.2 was amputated. The prosecution has examined 15 witnesses and marked 14 documents and 7 material objects and has proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

5. On the side of the revision petitioner, it is stated that Service P.3 and P.4 were not marked through proper witnesses and the



prosecution has failed to prove the case beyond all reasonable doubts. P.W.4 to P.W.6, the alleged eye witnesses, turned hostile and they failed to support the case of the prosecution. P.W.1 to P.W.3 are interested witnesses and their testimony could not be relied upon.

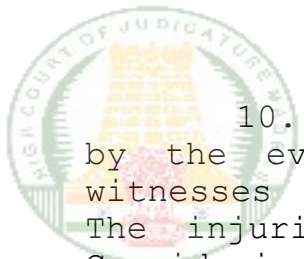
WEB COPY

6. On the side of the prosecution, it is stated that the cogent evidence of P.W.1 and P.W.3 cannot be set aside, merely, on the ground that they are related to P.W.2. P.W.2 is the injured witness. The evidence of P.W.2 corroborated the evidence of P.W.9 and P.W.10. In the Accident Register Copy - Ex.P4, P.W.2 has clearly stated that she was assaulted by one known person. The injuries of P.W.2 was proved by the evidence of P.W.9 and P.W.10 and from Ex.P4. A mere suggestion that there is a possibility of the injuries, to have been caused by a metal sheet falling from the cattle shed, is not a ground sufficient enough to prove the case of the defence. Nothing was produced on the side of the defence, to prove that P.W.3 was not an eye witness.

7. Family dispute between the parties and that the wife was residing with her parents at the time of occurrence were admitted by the defence side. Admittedly, the wife of the petitioner was not present at the time of occurrence. She was attending police training at that time. In view of the above, it is decided that the non examination of the wife of the petitioner is not fatal to the prosecution.

8. It is seen that the injuries of P.W.2 were proved by the prosecution. The evidence of P.W.1 to P.W.3 was corroborated by the evidence of P.W.9 and P.W.10. P.W.4 has admitted that there were injuries on the hand of P.W.2. P.W.5 has admitted that P.W.2 was found with injuries and she told that the injuries were caused by the attack of the accused. P.W.6 has also deposed that P.W.2 was injured. The evidence of P.W.6 and P.W.7 co-relates the evidence of P.W.1 to P.W.3. The evidence of P.W.4 and P.W.5 also co-relates the evidence of P.W.1 to P.W.3, regarding the injuries.

9. P.W.9 has deposed that the right hand of the victim was severed below the shoulders and the victim is not having her right hand now. He has further deposed that there was cut injury between the 2 fingers of the left hand with a measurement of 20 X 10 X 5 cm. P.W.10 has deposed that there were fracture in the left hand and another fracture in the left hand palm and he has also deposed that the right hand was completely severed. Recording of confessions of the petitioner and the seizure of Material objects on the basis of that confession were proved by the evidence of the Village Administrative Officer - P.W.11. The evidence of the Village Administrative Officer co-relates the evidence of the Investigation Officer. Confession Statement leading to recovery of material object is proved by the prosecution.



10. It is seen that the evidence of P.W.2 was corroborated by the evidence of P.W.1 and P.W.3. The evidence of hearsay witnesses P.W.6 and P.W.7 also co-relates the evidence of P.W.4. The injuries are proved by the evidence of P.W.9 and P.W.10. Considering the fact that the petitioner caused 3 injuries of grievous nature, thereby, the right hand of the victim was severed (amputated) from below the shoulder and considering the points discussed above, the **conviction imposed by the trial Court, confirmed by the appellate Court is hereby confirmed.** Hence, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Ls

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The 1st Additional Sessions Judge,
Madurai.
- 2.The III Additional Assistant Sessions Judge,
Usilampatti Camp, Madurai.
- 3.The Judicial Magistrate cum District Munsif No.I,
Usilampatti.
- 4.The Chief Judicial Magistrate,
Usilampatti.
- 5.The Inspector of Police,
Usilampatti Taluk Police Station,
Madurai District.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



Copy to

The Section Officer (Records),
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

Crl. R.C. (MD) No. 938 of 2017
20.01.2022

RK (01/02/2022) 5P 9C