



Crl.R.C.No.1680 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1680 of 2022

Thiyagarajan

... Petitioner

Vs.

State Rep.by Inspector of Police,
Pallipattu Police Station,
Tiruvallur District.
(Cr.No.259/2012)

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records relating to the judgment dated 10.10.2022 made in Crl.A.No.43 of 2022 on the file of I Additional District and Sessions Judge, Tiruvallur confirming the judgment dated 29.04.2022 made in S.C.No.15 of 2016 on the file of the Assistant Sessions Court, Tiruttani and set aside the same by allowing the above Crl.R.C.

For Petitioner	:	Mr.R.Bharath Kumar
For Respondent	:	Mr.L.Baskaran, Government Advocate (Crl. Side) assisted by Ms.M.Sumu Arnica

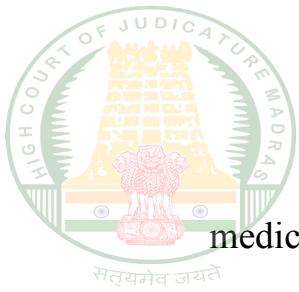
ORDER



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The petitioner was convicted by judgment, dated 29.04.2022 in SC.No.15 of 2016 by the learned Assistant Sessions Judge, Tiruttani (Trial Court) for offence under Section 307 IPC and sentenced to undergo three years Rigorous Imprisonment and to pay a fine of Rs.50,000/- in default to undergo Simple Imprisonment for one year and the petitioner was acquitted from the charge under Section 294(b) IPC. Aggrieved over the judgment of conviction, an appeal was preferred by the petitioner before the learned I Additional District and Sessions Judge, Tiruvallur (Lower Appellate Court) in Crl.A.No.43 of 2022. The Lower Appellate Court, by judgment dated 10.10.2022 dismissed the appeal, confirming the judgment of the trial Court, against which the present criminal revision case is filed.

2.The learned counsel for the petitioner submitted that in this case, there are totally ten witnesses, of which, PW1 is the wife of PW5/injured witness, PW2 and PW3 are the neighbours, PW4 and PW6 are the witnesses for Observation Mahazar (Ex.P10), Rough Sketch (Ex.P9), arrest and seizure. Except PW1 & PW5, the eye witnesses and other private witnesses not supported the case of the prosecution. PW7, the Doctor serving in MIOT Hospital deposed based on the records of



medical treatment given by one Dr.Sudeep Madhukar Nambiar. PW8 is the Doctor attached to Rajiv Gandhi Government Hospital, Chennai.

PW9 is the Sub-Inspector of Police who registered FIR (Ex.P8) and PW10 is the Investigating Officer. In this case, both the Courts below primarily based the conviction primarily on the evidence of PW1, the wife of PW5/injured witness. PW1 admits that she had not seen the occurrence and only after hearing the sound, she came to the scene, found the petitioner running from the scene. He further submitted that the evidence of PW8 is that PW5 suffered injuries on his left side frontal region, skull bone fractured and he took treatment as inpatient from 12.10.2012 to 21.11.2012 for 40 days. It is further projected that the injured/PW5 was initially taken to Nagari Government Hospital, thereafter to SIMS Hospital and Apollo Hospital, Tirupati. Since the Doctors there not given life assurance, PW5 was taken to MIOT Hospital, Chennai on 11.10.2012 at 04.20 a.m. Thereafter, the injured/PW5 was referred to Rajiv Gandhi Government Hospital, Chennai where he took treatment as inpatient from 12.10.2012 to 21.12.2012 for 40 days. The Investigating Officer admits that he recorded the statement of the victim/PW5 at his house on 30.10.2012, but the Doctor's evidence is that the injured brought to the hospital in an unconscious state, further he was



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3.The learned counsel further submitted that on humanitarian consideration, the petitioner handed over a demand draft in No.026141, dated 08.04.2025 for a sum of Rs.2,00,000/- (Rupees two lakh only) to PW5/injured, without prejudice to the submissions made. Hence, he prayed for allowing the revision.

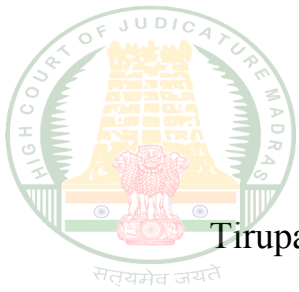
4.The learned Government Advocate (Crl. Side) appearing for the



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respondent Police filed counter and submitted that in this case, the mother of PW5 lodged a complaint that her son was assaulted by the petitioner and his brother, she witnessed the same and her son/PW5 was taken to Chennai for treatment by her relatives including PW1. The fact that the petitioner assaulted her son/PW5 clearly recorded at the earliest point of time. Unfortunately, she passed away during trial, hence she could not be examined. PW9 is the Sub Inspector of Police who received the complaint (Ex.P7) and registered FIR (Ex.P8). Thereafter, PW10 took up investigation, visited the scene of occurrence, prepared Observation Mahazar (Ex.P9), Rough Sketch (Ex.P10), examined the witnesses present in the scene of occurrence, examined the Doctors who treated the victim, arrested the accused, recorded his confession and recovered MO1. On collection of medical records and on completion of investigation, charge sheet filed before the Trial Court. Since A2 in this case was juvenile, the case split up and separate complaint filed against him in the Juvenile Justice Board. During trial, PW1 to PW10 examined, Exs.P1 to P11 marked and MO1 produced on the side of the prosecution. On the side of the defence, no witness examined and no documents marked.

5.He further submitted that in this case, PW1/wife of the injured/PW5 clearly narrated taking the injured/PW5 to SIMS Hospital,



Tirupathi, then Apollo Hospital, Tirupathi and thereafter brought PW5 to MIOT Hospital. PW5 was given first aid, his condition stabilized. Since PW5's relatives unable to pay the fee for further medical expenses, PW5 was taken to the Rajiv Gandhi Government Hospital, admitted on 12.10.2012 and surgery done. PW5 could be saved but with permanent impediment. PW5 was discharged on 21.11.2012 after 40 days treatment as inpatient. The medical records (Exs.P4 to P6) confirmed the grievous injuries and treatment given to PW5. In this case, PW5 clearly deposed the attack of the petitioner and injuries sustained by him. The Trial Court considering the evidence of PW1, PW5 and medical records, had rightly convicted the petitioner and the Lower Appellate Court on independent assessment of evidence and materials confirmed the conviction of the Trial Court. He further submitted that the petitioner was convicted for offence under Section 307 IPC with lesser sentence, hence, the revision is liable to be dismissed.

6.This Court considered the rival submissions and perused the materials available on record.

7.PW1 admits that she came to the scene after hearing the voice and saw the petitioner running away from the scene and PW5 down with



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a pool of blood. Initially, PW1 took PW5 to SIMS Hospital, Tirupathi and then Apollo Hospital, Tirupathi, thereafter brought PW5 to MIOT Hospital. The Wound Certificate of PW5 (Ex.P5) confirms PW5 admitted in MIOT hospital on 11.10.2012 at 04.20 a.m. The date and time and assault by known persons recorded as stated by PW1. After first aid, PW5 was stabilized. For want of money further treatment could not be continued in MIOT, a private hospital. Thereafter, PW5 taken to Rajiv Gandhi Government Hospital, admitted on 11.10.2012, surgery done on 12.10.2012, took treatment as inpatient, discharged after 40 days on 21.11.2012 confirmed by PW8/Doctor and the Wound Certificate (Ex.P6). The injuries are grievous in nature. In this case, the other eye witnesses namely PW2, PW3 and the witnesses (PW4 & PW6) for mahazar and confession statement not supported the prosecution case since they happen to be from the same village, which is understandable. There is some anomaly in the investigation done. But for this reason alone, the case cannot be completely thrown away. The recovery of Iron Rod (MO1) not proved in the manner known to law.

8.In this case, admittedly, on 10.10.2012 during night hours, PW5 was creating nuisance, abused and shouted at his wife, which was



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questioned by the petitioner and his brother on a wrong premise that the abuse is against them. In a fit of rage the assault had taken place. The petitioner and his brother said to have given one blow on the head of PW5 and left the place. Further, at the time of occurrence, the petitioner was a college student pursuing his B.Com degree. Now, he completed his education, got employed, settled with his family elsewhere. After the incident, there have been no further issues between the petitioner and victims PW1 and PW5. The petitioner was in prison as under trial prisoner for 70 days from 11.10.2012 to 20.12.2012 and after his conviction for 238 days from 29.04.2022 to 23.12.2022, in total 308 days.

9.To be noted, to attract the offence under Section 307 of IPC, there must be proof of an intention to cause death. In the case on hand, there is no evidence or material to show prior to the occurrence, the petitioner had intention to cause death of the injured/PW5 and further, there was only one blow. Hence, this Court finds that the prosecution failed to demonstrate the requisite intention to cause death. Hence, the conviction of the petitioner for offence under Section 307 IPC is not sustainable and, to be modified.

10.In this case, the evidence of PW1, PW5 and the Doctor/PW8



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and medical records (Exs.P4, P5 & P6) confirmed the grievous injuries sustained by PW5 at the hands of the petitioner.

11.In view of the above, the conviction for offence under Section 307 IPC is modified to Section 326 IPC. The petitioner is convicted for offence under Section 326 IPC and sentenced to the period already undergone by him. The fine amount of Rs.50,000/- is sustained.

12.With the above modification, this Criminal Revision Case is partly-allowed.

09.04.2025

Speaking Order/Non Speaking Order
Index : Yes/No
Neutral Citation: Yes/No

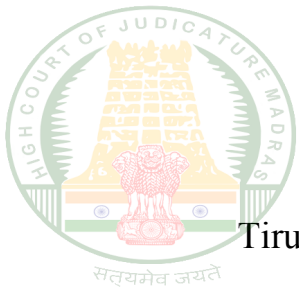
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M.NIRMAL KUMAR, J.

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To

1.The I Additional District and Sessions Judge,



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Tiruvallur.

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2.The Assistant Sessions Judge,
Tiruttani.

3.The Inspector of Police,
Pallipattu Police Station,
Tiruvallur District.

4.The Public Prosecutor,
Madras High Court.

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