



Crl.A(MD)No.449 of 2019

BAIL SLIP

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The Petitioner/viz., Kannan @ Murugan aged 31/19 years, S/o. Arunan was directed to be released on bail vide order in CRL.MP. (MD) No.8377/19 in Crl.A. (MD) No.449/2019 dated 26-09-2019 by VPNJ.

The Petitioner/viz., Selvakumar aged 23/19 years, S/o. Sankaran was directed to be released on bail vide order in CRL.MP. (MD) No.8377/19 in Crl.A. (MD) No.449/2019 dated 26-09-2019 by VPNJ.

The Petitioner/viz., Manikandan aged 23/19 years, S/o. Rajaram was directed to be released on bail vide order in CRL.MP. (MD) No.8377/19 in Crl.A.(MD) No. 449/2019 dated 26-09-2019 by VPNJ.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 27.11.2024

Pronounced On: 30.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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1.Kannan @ Murugan
2.Selvakumar
3.Manikandan

... Appellants/ Accused No.1 to 3

Vs.

State rep.by



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The Inspector of Police,
Thatchanallur Police Station,
Thatchanallur,
Tirunelveli District.
In Crime No.171 of 2018

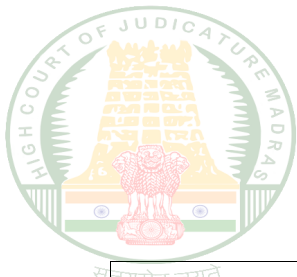
... Respondent/Complainant

PRAYER: Criminal Appeal has been filed under Section 374 (2) of the Criminal Procedure Code, to call for the records in S.C.No.101 of 2019 relating to the judgment dated 07.09.2019 passed by the 4th Additional Sessions Court, Tirunelveli, and to set aside the judgment of the conviction passed on the appellants/Accused No.1 to 3.

For Appellants : Mr.P.Pethu Rajesh
For Respondent : Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)

JUDGMENT

The appellants, who are Accused Nos.1 to 3 in S.C.No.101 of 2019 on the file of the learned 4th Additional Sessions Court, Tirunelveli, filed this criminal appeal challenging the conviction and sentence imposed against them by the learned 4th Additional Sessions Court, Tirunelveli. The learned trial Judge has passed the impugned order, dated 07.09.2019 and found the appellants guilty, convicted and sentenced them as detailed below:

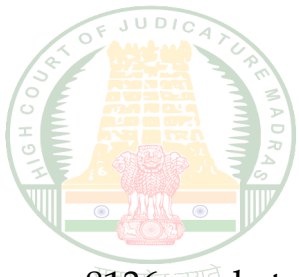


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<i>Accused</i>	<i>Convicted under Section</i>	<i>Sentence of Imprisonment/ fine imposed</i>
Appellants/ Accused Nos. 1 to 3	341 of IPC	Rigorous Imprisonment for one month and to pay a fine of Rs. 500/-, in default to undergo simple Imprisonment for ten days.
	294(b) of IPC	Rigorous Imprisonment for three months and to pay a fine of Rs. 1,000/-, in default to undergo simple imprisonment for one month.
	353 of IPC	Rigorous Imprisonment for one year and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for three months.

2. The brief facts of the case:

P.W.1 and P.W.2 were the conductor and driver. On 30.08.2018 at about 22.45 hours, P.W.2 drove the bus bearing Registration No.TN 01 AN 1118, and they were heading to Ooty, from Nagercoil, when the bus departed from Tirunelveli New bus stand, to take a passengers to Ooty in a government bus, the appellants came to board the bus to Otanchatram and at that time, P.W.1 stated that already the seats had been occupied and asked them to get down. Due to which, there was a wordy altercation between them. On the same day at 23.15 hours, due to the said enmity when the Government bus bearing Registration No.TN 01 AN 1118, came near Vethividyasaram, Tatchanallur Madurai Road, at moderate speed, the appellants came in a two wheeler Honda Shine bearing Registration No.TN 72 AS



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8136, and stopped the bus and abused the driver and conductor in a filthy language and also prevented them from discharging their duty and caused damage to the front windscreen of the bus, by using a stone and caused damage, worth about Rs. 6,500/- and criminally intimidated them. Hence, the respondent registered a case in Crime No.171 of 2018, for the offence punishable under Sections 341, 294(b), 353 and 506(ii) of IPC and Section 3 of TNPPDL Act, 1992. After completion of investigation, the respondent police filed the final report. The same was taken on the file in P.R.C.No.27 of 2018, by the learned Judicial Magistrate No.IV, Tirunelveli.

3.On appearance of the appellants, copies of documents relied by the prosecution were furnished to the accused under section 207 of Cr.P.C. The learned Judicial Magistrate No.IV, Tirunelveli, found that the offence under Sections 341, 294(b), 353 and 506(ii) of IPC and Section 3 of TNPPDL Act, 1992 are triable only by the Sessions Court and committed the case under Section 209 Cr.P.C., to the learned IV Additional Sessions Court, Tirunelveli. Thereafter, the case was taken on file in S.C.No.101 of 2019. Then, framed necessary charges were framed and the accused were questioned. The accused denied the charges and pleaded not guilty and stood for trial.

4.To prove the case, the prosecution examined P.W.1 to P.W.14 and exhibited 8 documents as Ex.P.1 to Ex.P.8 and produced 2 material objects as M.O.1 and M.O.2.



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Thereafter, the appellants were questioned under Section 313 Cr.P.C proceedings after disclosing the incriminating evidence against them and they denied the same as false and thereafter, the case was posted for defence evidence. The accused neither produced any documents nor examined any witnesses on their side.

5.The learned trial Judge, on considering the evidence of witnesses and documents, convicted and sentenced the appellants for the offence as stated supra. Aggrieved over the same, the appellants preferred this appeal.

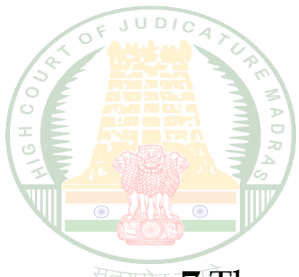
6.The submission of the learned counsel appearing for the appellants:

6.1. The prosecution failed to examine the any of the passenger of the bus and they examined only driver and conductor of the bus and conviction and sentence passed only on the basis of their interested testimonies is not legally sustainable.

6.2. The independent witness examined on the side of the prosecution namely PW3 turned into hostile and hence conviction only on the basis of the driver and conductor of the bus is not legally sustainable.

6.3. The Mahazar and Aathatchi witnesses turned hostile PW6, PW7, PW8, PW9 witnesses for arrest and recovery also turned hostile.

6.4. The evidence of PW1 and PW2 also is not cogent and their evidence bristler with material contradictions and therefore their interested testimony should be discarded. In all aspects the prosecution failed to prove the charged offence.



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7.The submission of the learned Government Advocate (Crl. Side) appearing for the respondent:

7.1. PW1 and PW2 are driver and conductor of the bus. They have clearly deposed about the manner of the occurrence that took place. They have specifically deposed that appellants intercepted the bus and scolded them and criminally intimidated them and caused damage to the bus front windscreen and the same was totally damaged and the value of the damage was assessed as Rs.6,500/- and certificate was marked Ex.P3 and the same was not disputed by the appellant. Apart from that, to prove that the vehicle plied on the date of the occurrence PW10 was examined and he produced Ex.P2 and the same was also not disputed. In view of the above fact, the prosecution clearly proved the case and therefore he seeks to confirm the conviction and sentence.

7.2. He also submitted that there is no bar to convict the appellant on the basis of the evidence of PW1 and PW2. Their evidence is cogent and without any material discrepancy. They are competent witnesses to speak about the occurrence and they have clearly deposed about the damage caused to government bus. Therefore he seeks to confirm the sentence.

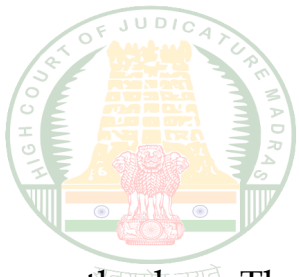
8.This Court considered the rival submissions made by the learned counsel appearing on either side and also perused the materials available on record.



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9. PW1 is the driver of the Tamilnadu State Corporation Bus bearing Reg.No. TN01A1118. On 30.08.2018 when the said bus was stationed in the Tirunelveli Bus Stand on 10.45 p.m., the appellants boarded the bus and they requested to provide seats to travel to Ottanchathiram. The conductor namely PW2 told them that seats walready occupied for which they picked up a wordy quarrel with the PW1 and PW2 and finally they got off from the bus and they intercepted the bus near the Thatchanallur Vidhya Ashiramam School and scolded the conductor and driver of the bus namely PW1 and PW2 and criminally intimidated them and caused damage to the front windscreen of the bus. PW1 and PW2 clearly deposed about the occurrence without any material contradiction and this court finds no reason to disbelieve their evidence. They were objected to cross examination but nothing was elicited to disbelieve their version. PW10 deposed about the plying of the bus in the said route on the date of occurrence and PW1 and PW2 were on duty in the said bus and marked Ex.P2. Therefore there was no dispute over plying of the bus on the route. PW11 also deposed about the value of the damage caused to the bus. Therefore the prosecution clearly proved the case that since the appellants were not given accommodation in the bus, they intercepted the bus and stopped the bus and scolded PW1 and PW2 using abusive words and obstructed the bus and prevented the bus to proceed further and also criminally intimidated and caused damage to



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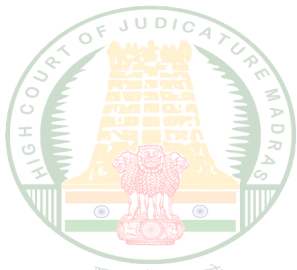
the bus. Therefore the prosecution clearly proved the offence under section 341, 294(b), 353, 506(ii) of IPC and Section 3 of the TNPPDL Act. Therefore the learned trial judge correctly convicted the appellants under the above sections.

10. The learned counsel for appellants submit that the incident took place without premeditation and taken place as the appellants were infuriated as they were not provided seat and also they are first time offender and there is no previous bad antecedent and they are bread winners of their family and therefore to reduce the sentence considering the above mitigating circumstances. Considering the above mitigating circumstances. This court is inclined to reduce the sentence to the period already undergone on condition to pay Rs.50,000/- as compensation to the Transport Corporation as the corporation has suffered monetary loss due to stopping of the vehicle in the midway because of the act of the appellants.

11. Accordingly this appeal is partly allowed with the following terms:

11.1. The conviction imposed against the appellants in S.C.No.101 of 2019 passed by the 4th Additional Sessions Court, Tirunelveli, dated 07.09.2019 is confirmed.

11.2. The sentence imposed against them is **reduced to the period already undergone** with a condition to pay a sum of **Rs.50,000/-** (Rupees Fifty Thousand only) as compensation payable to the Tamil Nadu State Transport Corporation



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(TNSTC), Nesamony Nagar, Nagercoil, Kanyakumari District, within one month
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from the date of receipt of a copy of this order, otherwise the sentence imposed by
the learned trial court will be restored.

Sd/-

30.04.2025

// True Copy //

/05/2025

Sub Assistant Registrar
(CS - I/ II / III /IV)

vsg

To

1.The 4th Additional Sessions Court,
Tirunelveli.

2.The Inspector of Police,
Thatchanallur Police Station,
Thatchanallur,
Tirunelveli District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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

+2 CC to M/s.P.PETHU RAJESH, Advocate (SR-29105[F] dated 30/04/2025)

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Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023