



Crl. R.C.(MD)No.72 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.09.2023

CORAM

THE HONOURABLE MR. JUSTICE P. DHANABAL

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Muruganantham

.. Petitioner

Vs.

State Represented by
The Inspector of Police,
Patteswaram Police Station,
Kumbakonam.
(Crime No.28 of 2012).

.. Respondent

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records relating to the judgment dated 21.11.2019 passed in Criminal Appeal No.13 of 2019 on the file of the Additional District and Sessions Judge (Fast Track Court), Kumbakonam, confirming the judgment dated 07.01.2019 passed by the learned Judicial Magistrate No.II, Kumbakonam, in C.C.No.181 of 2012 and to set aside the same.

For Petitioner	: Mr.K.Guhan
For Respondent	: Mr.M.Sakthi Kumar
	Government Advocate (Crl. Side)

ORDER

This petition has been filed by the petitioner to set aside the judgment and



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conviction passed by the learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam in Crl.A.No.13 of 2019 on 21.11.2019, in confirming the judgment and conviction passed by the learned Judicial Magistrate No.II, Kumbakonam, in C.C.No.181 of 2012 on 07.01.2019.

2.The petitioner herein is accused in C.C.No.181 of 2012 and he was convicted under Section 324 of IPC (2 counts), sentenced to undergo one year simple imprisonment for each count and under Section 326 of IPC, he was sentenced to undergo two years simple imprisonment and to pay a fine of Rs.500/- in default to undergo one month simple imprisonment and he was acquitted for the offence under Section 294(b), 506(ii) of IPC and A2 was acquitted under Section 323 of IPC. Aggrieved by the said judgment and conviction, the petitioner herein preferred an appeal in Crl.A.No.13 of 2019 before the learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam and the learned Additional District and Sessions Judge also confirmed the judgment and conviction passed in C.C.No.181 of 2012, by dismissing the appeal by a judgment dated 21.11.2019.

3.According to the prosecution case, on 07.03.2012 at about 19.00 hours, both the accused went to the house of victim P.W.1 and abused in obscene words and assaulted with bill hook and thereby, caused injuries. When P.W.2 came to prevent



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the same, the accused assaulted P.W.2 also. A2 assaulted P.W.2 with wooden log and caused injuries. P.W.3 came to prevent the occurrence and she was also assaulted with bill hook and caused grievous injuries. P.W.1 to P.W.3 were taken to hospital for treatment. While they were in treatment, Police Officer Selvaraj P.W.9 has obtained complaint Ex.P1 from P.W.1. Thereafter, P.W.9 registered FIR, Ex.P7. Thereafter, he examined the witnesses and filed final report as against A1 under Sections 294(b), 324, 326, 506(ii) of IPC and against A2 under Section 323 of IPC. Thereafter, the accused was served copies under Section 207 of Cr.P.C. Thereafter, the learned Judicial Magistrate after hearing both sides has framed charges under Sections 294(b), 324 (2 counts), 326, 506(ii) of IPC and read over and explained about the charges and the accused denied the charges.

4.The prosecution had examined P.W.1 to P.W.12 and marked Exs.P.1 to P.16 and marked M.Os.1 and 2 and on the side of the accused, no one was examined and no document was marked. After examination of prosecution witnesses, the accused were examined under Section 313(1)(b) of Cr.P.C., with regard to incriminating circumstances found in the prosecution evidences. The accused denied the evidences.

5.Upon perusing the oral and documentary evidences, the trial Court found



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the petitioner guilty for the offence punishable under Sections 324 (2 counts) and 326 of IPC and sentenced to undergo one year simple imprisonment under Section 324 of IPC (2 counts) for each count and he was sentenced to undergo two years simple imprisonment and to pay a fine of Rs.500/- in default to undergo one month simple imprisonment for the offence under Section 326 of IPC. Aggrieved by the same, the petitioner preferred an appeal in Crl.A.No.13 of 2019 on the file of the learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam and the Appellate Court also dismissed the same, by a judgment dated 21.11.2019 and confirmed the conviction and sentence imposed by the trial Court.

6. Aggrieved by the said judgment, the petitioner has filed the present revision case on the following grounds:

The judgment of Courts below have not considered the major discrepancies in the prosecution evidence. As per FIR, the P.W.7 came to the house of P.W.1 on 07.03.2012 at 07.00 p.m., but P.W.7 stated that on 07.03.2012 at 12.00 noon, he visited the house of P.W.1. In the Accident Register, Ex.P4 the P.W.1 stated that 5 unknown persons assaulted the victim but the P.W.2 in the accident register Ex.P5 stated that three unknown persons assaulted the victim and Accident Register of P.W.3 shows the four unknown persons assaulted the victim. Therefore, there are major discrepancies in the prosecution case and the trial Court failed to consider the



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said aspects. The recovery of material objects also not proved by the prosecution, the trial Court failed to consider the property dispute pending between the parties and failed to establish to consider the X ray report was not marked in this case and the prosecution witness have not witnessed about the presence of P.W.7 and the trial Court has mainly relied on the evidence of pleadings. The trial Court has failed to appreciate the evidence in proper manner and wrongly convicted the accused.

7.The learned counsel appearing for the petitioner argued that the prosecution has failed to prove the charges beyond reasonable doubt and the evidences of P.W.1 to P.W.3 are contradict to each other with regard to time and manner of occurrence and oral evidences in respect of injuries sustained by the witnesses are not tallied with the medical evidence in respect of injuries sustained by the witnesses. The prosecution witnesses have not spoken about the presence of P.W. 7 on the date of occurrence. The trial Court acquitted the A1 from the offence under Section 294(b) and 506(i) of IPC and the same benefit of doubt ought to have been extended to other offences. The prosecution witnesses are not cogent and highly doubtful. Thereby, the prosecution failed to prove the charges levelled against the accused for the offence under Sections 324 and 326 of IPC. The trial Court as well as the appellate Court failed to consider the said major discrepancies and wrongly convicted the accused. Hence, the judgment of the Courts below are liable to be set



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aside.

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8.The learned Government Advocate appearing for the respondent would contend that the prosecution has examined P.W.1 to P.W.12 and marked Ex.P1 to Ex.P16 and M.O.1 and M.O.2, P.W.1 to P.W.3 are injured witnesses and they categorically deposed about the injuries sustained by them and P.W.8 Doctor also deposed about the injuries sustained by the P.W.1 to P.W.3 and issued wound certificate. As per Doctor evidence the P.W.1 and P.W.2 sustained simple injuries and P.W.3 sustained grievous injury. The prosecution also marked the X ray taken to P.W.3. The witnesses also identified the M.O.2 aruval. The Investigating Officer who recovered the aruval also deposed about the seizure of M.O.2. Therefore, the prosecution has amply proved the case beyond the reasonable doubt and the trial Court as well as the appellate Court have elaborately discussed about the prosecution evidence and correctly came to a fair conclusion and convicted the accused for the offences under Section 324 and 326 of IPC. Therefore, this Criminal revision Case is liable to be dismissed.

9.Upon perusing the documents and evidences adduced on both sides and upon perusing the judgments of lower Courts, the points for determination in this petition is whether the judgment of the learned Additional District and Sessions



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Judge (Fast Track Court), Kumbakonam in Crl.A.No.13 of 2019 on 21.11.2019, in confirming the conviction and sentence imposed by the learned Judicial Magistrate No.II, Kumbakonam, in C.C.No.181 of 2012 on 07.01.2019 is sustainable according to law and facts.

Point:-

10.The prosecution case is that the petitioner along with other accused came to the house of defacto complainant and assaulted P.W.1 to P.W.3 and caused injuries. In order to prove the prosecution case, P.W.1 to P.W.12 were examined and Ex.P1 to Ex.P16 were marked and also marked M.O.1 and M.O.2. P.W.1 who is injured witness categorically deposed about the petitioner assaulted him with bill hook and the injuries sustained by him. P.W.2 and P.W.3 have also categorically deposed about the assault made by the petitioner and injuries sustained by them. The Doctor P.W.8 also categorically deposed about the injuries sustained by the witnesses P.W.1 to P.W.3 and he issued wound certificates. The P.W.1 to P.W.3 have clearly stated about the assaults made by the accused with aruval and nothing elicited from the prosecution witnesses in favour of the accused through cross examination. The evidence of P.W.1 to P.W.3 are cogent, reliable and cannot be discarded in any way. The learned counsel appearing for the appellant mainly focused the evidence with regard to the presence of P.W.7, but the P.W.7 is hearsay



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witness and the Courts below also not relied the evidence of P.W.7 and there is no major discrepancies in the prosecution case as alleged by the accused and thereby, the arguments of the counsel for the appellant are not acceptable.

11. According to P.W.1 to P.W.3 and Doctor P.W.8, the injuries sustained by P.W.1 and P.W.2 are simple injuries and the injury sustained by P.W.3 is grievous injury. Already X ray was also taken to P.W.3 and as per X ray, there was a fracture in right hand ulna. Thereby, the prosecution has proved the injuries sustained by the witnesses P.W.1 to P.W.3. The recovery mahazer witnesses have also deposed about the seizure of M.O.2, the Investigating Officer who recovered the M.O.2 has deposed about the arrest of the accused and recovery of M.O.2. Therefore, the prosecution has proved the case against the A1 beyond reasonable doubt. The trial Court also elaborately discussed about the evidence adduced by the prosecution and correctly came to the conclusion that the petitioner found guilty for the offence under Section 324 (2 counts) and 326 of IPC. The appellate Court also passed reasoned judgment by analyzing all the evidences and materials. Therefore, no any infirmity found on the judgments of Courts below and this Court has no warrant to interfere in the order of the trial Court as well as the appellate Court. In view of the above discussion, as discussed above, this Court is of the opinion that the petitioner found guilty for the offence under Sections 324 (2 counts) and 326 of IPC. Therefore, the conviction for



the offence under Section 324 (2 counts) and 326 of IPC as against the petitioner is

12.As far as the quantum of punishment is concerned, the trial Court has

13. Considering the family background of the petitioner and considering

14. In the result, the Criminal Revision Petition is partly allowed and the



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confirmed in Crl.A.No.13 of 2019 dated 21.11.2019, on the file of the learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam are modified. The conviction for the offence under Sections 324 (2 counts) and 326 of IPC is confirmed and the petitioner is sentenced to undergo six months simple imprisonment for the offence under Section 324 of IPC (2 counts) for each count and sentenced to undergo one year simple imprisonment and to pay a fine of Rs.500/- under Section 326 of IPC and the fine amount was already paid by the petitioner and the same has to be adjusted. The sentence imposed on the petitioner shall run concurrently. The sentence already undergone by the petitioner shall be set off under Section 428 of Cr.P.C.

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NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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To

- 1.The Additional District and Sessions Judge (Fast Track Court), Kumbakonam.
- 2.The Judicial Magistrate No.II, Kumbakonam.
- 3.The Superintendent of Prison, Central Jail, Trichy.
- 4.The Inspector of Police,
Patteswaram Police Station,
Kumbakonam.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

Mrn

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