



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.06.2023

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.A.(MD).No.46 of 2016

Haris Ravi

... Appellant/Accused No.1

Vs.

State,
Represented by,
Nazereth Police Station,
Thoothukudi District.
Crime No.164 of 2012.

... Respondent/Complainant

PRAYER : Criminal Appeal filed under Section 374(2) of Cr.P.C to call for the records in S.C.No.96 of 2015 on the file of the learned Sessions Judge Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi and set aside the Judgment in S.C.No.96 of 2015, dated 02.02.2016.

For Appellant : Mr.K.Vinayagan

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



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JUDGMENT

This appeal has been preferred as against the Judgment passed in S.C.No.96 of 2015, dated 02.02.2016, on the file of the learned Sessions Judge Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi, thereby convicting the appellant for the offence punishable under Section 325 of I.P.C.

2.The case of the prosecution is that the defacto complainant is the Panchayat President of Kadaiyanodai Village. The first accused had demolished the channel and had made a pathway in order to draw water from the field of one Paul from the Well. Therefore, the defacto complainant, who is being the President of the said Village, has questioned the same. Due to the said enmity on 14.09.2012 at about 04.50 p.m., when the defacto complainant was in the Panchayat office, accused persons trespassed into her office with sticks in their hands and the first accused abused her with filthy language and also shouted that she had closed his dyeing unit and also preventing him from drawing water and attacked her with sticks. Therefore, she sustained injury. When she prevented the attack with her both hands, she sustained injuries on her right palm and fingers and also threatened her with dire consequences.



Thereafter, they also damaged the tube lights, chair, table, telephone which were in the office to the tune of Rs.4,950/-. Hence, the complaint.

3.On receipt of the said complaint, the respondent registered the F.I.R in Crime No.164 of 2012 against the accused for the offences under Sections 452, 294(b), 325, 307 and 506(2) of I.P.C and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 and Section 3(1) of TNPPDL Act. After completion of the investigation, the respondent filed a final report and the same has been taken cognizance by the trial Court and framed charges against the first accused under Sections 452, 294(b), 325, 307 of I.P.C and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 and Section 3(1) of TNPPDL Act and framed charges against accused Nos.2 and 3 under Sections 452, 294(b) and 506(2) of I.P.C and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 and Section 3(1) of TNPPDL Act.

4.In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.13 and marked Exs.P.1 to P.8. The prosecution also produced material objects M.O.1 to M.O.4 and on the side of the accused, no one was examined and no documents were marked.



5. On perusal of the oral and documentary evidence, the trial Court found the appellant alone guilty for the offence punishable under Section 325 of I.P.C and sentenced him to undergo two years Rigorous Imprisonment and imposed a fine of Rs.2,000/-, in default to undergo three weeks Rigorous Imprisonment. Hence, the present Appeal.

6. The learned counsel appearing for the appellant raised the ground that even according to the defacto complainant, the accused persons trespassed into her office with sticks and abused her with filthy language, another eyewitness deposed that one person trespassed into the office and that too with helmet. Therefore, the accused was not identified by any of the witnesses, as such, the prosecution failed to prove its case beyond any doubt. P.W.1 also categorically stated before the Doctor, who treated her, that she was attacked by only one person with sticks. She did not even whisper about the alleged two persons, who allegedly trespassed into her office. Except P.W.1, no other witnesses had supported the case of the prosecution in order to bring the charges to home. Only due to previous enmity between the appellant and the defacto complainant, a false complaint has been foisted as against the appellant.



7.Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent would submit that while P.W.1 was President of Kadaiyanodai Village, the appellant completely damaged the entire channel while drawing water from the Well. It was questioned by P.W.1. Therefore, there was enmity between them. The appellant herein along with other accused persons trespassed into the Panchayat office and attacked P.W.1. Therefore, she sustained grievous injuries. The victim's evidence is trustworthy and cogent. Therefore, the trial Court, believed the evidence of P.W.1, had rightly convicted the appellant for the offence punishable under Section 325 of I.P.C. Hence, he prayed for dismissal of the appeal.

8.Heard the learned counsel appearing on either side and perused the materials available on record.

9.Admittedly, the defacto complainant was the Panchayat President of Kadaiyanodai Village at the time of occurrence. The appellant had drawn water from the Well owned by one Paul with the help of a lorry by damaging the channel while making pathway. Therefore, it was questioned by P.W.1 and as such, the appellant was angry with her. While being so, on 14.09.2012 at



about 04.50 p.m., when P.W.1 was in her office, the appellant and two other accused persons trespassed into the office with sticks. They also scolded her with filthy language and P.W.1 was attacked by the appellant with sticks. When it was prevented by her hands, she sustained grievous injuries on her hands. The other witnesses, who were present in the Panchayat office, turned hostile. However, the victim was examined as P.W.1 and she categorically deposed that the accused persons trespassed into her office and the appellant had attacked her with sticks. Therefore, she was prevented by her hands and she sustained injuries on her both hands. He also scolded her with filthy language and repeatedly attacked her. The appellant also caused damage to the office furniture to the tune of Rs.4,950/-. Though other witnesses turned hostile, P.W.1 went to the Government Hospital, Srivaikundam. P.W. 10 treated her and found the following injuries:-

“1. சிதைந்த காயம், கட்டை விரலுக்கும் ஆள்காட்டி விரலுக்கும் நடுவில் 5 X 2 X 2 செ.மீ அளவில் இருந்தது.

2. வலது உள்ளங்கையில் மேல்புறத்தில் ஆள்காட்டி விரலின் அடிப்பகுதியில் 3 X 2 X 2 இருந்தது.

3. வலது காயம் வலது முன்னங்கையில் கீழ்புறத்தில் 4 X 4 செ.மீ அளவில் இருந்தது.



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4.வீக்க காயம் 4 X 4 செ.மீ அளவில் இடது
முன்னங்கையில் மின்பகுதியில் 3 X 3 செ.மீ
அளவில் இருந்தது.

5.வீக்க காயம் இடது முன்னங்கையில்
அடிப்பகுதியில் 6 X 4 செ.மீ அளவில் இருந்தது.”

10. Therefore, P.W.10 referred her for higher treatment to the Government Hospital, Tirunelveli. Due to the said injuries, she had fracture on both hands and opined that those injuries are grievous one. She also registered the accident register, which was marked as Ex.P.4. P.W.1 categorically stated that a known person attacked her with sticks, due to which, she sustained injuries. Though the appellant trespassed into the Panchayat office along with other accused persons, the appellant alone possessed sticks and attacked her. Therefore, the trial Court rightly acquitted other accused persons and convicted the appellant alone for the offence punishable under Section 325 of I.P.C. The prosecution also proved the previous enmity between P.W.1 and the appellant. P.W.1 categorically and cogently deposed in order to bring the charge under Section 325 of I.P.C to home. Hence, the prosecution proved the case beyond any doubt and this Court finds no infirmity or illegality in the order passed by the trial Court.



11.Now, P.W.1 died, due to her illness. The appellant is also ready and willing to pay compensation for the injuries sustained by P.W.1 to her legal heirs, since it is a compoundable offence.

12.Considering the above facts and circumstances, this Court is inclined to modify the sentence alone for the offence under Section 325 of I.P.C. Accordingly, the order of conviction passed by the trial Court for the offence under Section 325 of I.P.C is hereby confirmed. Insofar as the sentence of two years of imprisonment is modified as compensation of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand Only) to be paid in favour of the legal heirs of P.W.1 by the appellant on or before 26.06.2023, by way of deposit to the credit of the trial Court in S.C.No.96 of 2015 on the file of the learned Sessions Judge Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi. On such deposit, the legal heirs of P.W.1 are permitted to withdraw the same. If the appellant failed to deposit the said amount, the sentence imposed by the trial Court is hereby restored without further reference to this Court and the respondent is directed to secure the appellant to serve the remaining period of sentence.



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13. Accordingly, this Criminal Appeal is partly allowed.

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

1. The Sessions Judge Mahalir Neethimandram
(Fast Track Mahila Court),
Thoothukudi.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.K.ILANTHIRAIYAN, J.

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