

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30.6.2015

CORAM

THE HON'BLE MR.JUSTICE P.DEVADASS

Criminal Appeal No.381 of 2015
and
M.P.No.1 of 2015

Sankar

... Appellant/Accused/A1

vs.

State represented by
The Inspector of Police,
Sendurai Police Station
Ariyalur District.
(Crime No.51 of 2013)

... Respondent/Complainant

Criminal Appeal filed under Section 374(2) of Cr.P.C to set aside the conviction and sentence passed by the learned Sessions Judge, Fast Track Mahila Court, Ariyalur District in S.C.No.102 of 2013 by Judgement dated 29.05.2015 and acquit the appellant herein from the charges.

For appellants : Mr. S.Sasikumar

For respondent : Mr.P.Govindarajan
Additional Public Prosecutor.

JUDGMENT

A1 in S.C.No.102 of 2013 on the file of the learned Additional Sessions Judge, Fast Track Mahila Court, Ariyalur is the appellant herein.

2. In the said Court, ultimately, he was found convicted and sentenced as under:

Accused	Conviction	Sentence
A1	Sec.294(b) IPC	Fine Rs.1000/- in default 1 month S.I.
	Sec.323 IPC	6 months R.I and fine Rs.1000/- in default 2 months R.I.

3. P.W.1 is the daughter of P.W.4. P.Ws.2 and 6 are daughters of P.W.1. They and A1 belong to Sedakudikkadu village in Ariyalur District. They have property dispute. In such circumstances, on 23.03.2013, at about 7 pm with said village, A1 to A4 have abused P.Ws.1 and 4 in filthy language. A1 assaulted P.W.2 with M.O.1- wooden plank on her nose. She sustained injury in her nose. P.Ws.3 and 6 witnessed the occurrence. P.W.1 lodged Ex.P.1-complaint with P.W.8-Sub Inspector of Police. He registered this case (F.I.R-Ex.P.5). P.W.9-Inspector took up his investigation. P.W.7-Balamurugan, a private Doctor examined P.W.2 and issued her Ex.P.4-injury certificate. In the meantime, P.W.9 visited the scene place, prepared Ex.P.6-Rough Sketch and examined the witnesses and recorded their statement. Subsequently, P.W.10-Rajeswari,Inspector continued the investigation. She concluded it and she filed the final report as against A1 to A4 for offences under Sections 341, 294(b), 307, 506 (ii) and 323 I.P.C in the committal court.

4. After committal, the learned Additional Sessions Judge, Ariyalur considering the arguments of both, the final report and the documents attached thereto framed charges against the accused including A1. They have not pleaded guilty to the charges.

5. In the circumstances, to substantiate the charges, prosecution examined P.Ws.1 to 10, marked Exs.P.1 to P.7 and exhibited M.Os.1 and 2.

6. On the incriminating aspects in the prosecution evidence, the trial Court examined the accused under Section 313 Cr.P.C.

7. The accused denied his complicity in this case. However, they did not examine any witness nor mark any document on their side.

8. Appreciating the said evidence and the arguments of both sides, the trial Court convicted and sentenced A1 as stated already.

9. According to the learned counsel for the appellant/A1, both the appellant and the respondent are neighbours and relatives. In order to buy peace, the appellant is confining his arguments only to the sentence aspect. The wife of A1 and P.W.1 are very close friends and they are also distant relatives. If A1 goes to jail, their husbands will fight. Thus, the appellant may be shown mercy.

10. On the other hand, the learned Additional Public Prosecutor would submit that the finding recorded by the trial court is based on evidence. Considering the facts and circumstances of the case, the trial Court has awarded the sentence.

11. I have considered the rival submissions, perused the impugned judgement and also the evidence on record.

12. Reading the oral evidence of P.Ws.1,2 and other witnesses and the corroborative medical evidence of P.W.7, the offences under Section 294(b) and 323 IPC are established as against A1/appellant.

13. Under Section 294(b) IPC, A1 was fined Rs.1000/- with default sentence. This sentence is neither low nor excessive.

14. Under Section 323 IPC, A1 has been sentenced to 6 months R.I and he was also fined Rs.1000/- with default sentence. A1 has already paid the fine amount. A1 and complainant's side are relatives. They belong to the same village. Of course, there were strained relationship between both because of property. Property made them enemies. Even as per the evidence of P.W.1, it is seen that P.W.1 and A1's wife are very close friends. Husbands are fighting. They should not be made enemies forever. Peace is better than war. 'Just as a past behind a saint, a Sinner too has a future'. One cannot be doomed for ever. He cannot turn a new leaf. A1 is the sole bread winner of the family. If he goes to jail, it will affect his dependants. A1 is only 35 years old. He is neither old nor young. He has a family to support.

15. Noticing the above mitigating circumstances, the rigour of sentence passed under Section 323 IPC can be diluted.

16. In the result,
(i) This appeal is partly allowed;
(ii) Conviction under Sections 294(b) and 323 of IPC are confirmed;
(iii) Sentence of fine under Section 294(b) IPC is maintained;
(iv) Sentence of fine under Section 323 of IPC is maintained.

However, the six months R.I is set aside.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Sessions Judge,
Ariyalur.
2. The Additional Sessions Judge,
Fast Track Mahila Court,
Ariyalur
3. The Public Prosecutor,
High Court, Madras.
4. Inspector of Police,
Sendurai Police Station,
Ariyalur District.

+1cc to M/s.S.Sasi Kumar, Advocate, S.R.No.32263

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SAI (CO)
CA(10/07/2015)

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