

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Cr1.R.C.No.189 of 2015  
and  
M.P.No.1 of 2015

Chinnadurai  
S/o.Rasappan

... Petitioner

Vs.

1. Ravi  
S/o.Rathinasamy

2. Jayasundari  
W/o.Ravi

3. The State represented by  
Sub-Inspector of Police,  
Muthandikuppam Police Station,  
Muthandikuppam.

.... Respondents

Criminal Revision filed under sections 397 and 401 of Criminal Procedure Code against the judgment of learned Principal Sessions Judge, Cuddalore, passed in C.A.No.17 of 2014 on 03.12.2014 confirming the judgment of learned Judicial Magistrate I, Panruti, passed in C.C.No.14 of 2012 on 16.12.2013.

For Petitioner : Mr.T.Sivagnanasambandan

For Respondents : Mr.Dalit Tiger C.Ponnusamy  
[R1&R2]  
Mr.D.Sivaramkumar,  
Government Advocate  
[Cr1.side] [R3]

## O R D E R

This revision is preferred against two concurrent judgments of Courts below acquitting the first respondent of charges u/s.294(b), 326 and 506(ii) IPC and second respondent of charges u/s.323 and 506(ii) IPC.

2. First respondent stood trial for offences under Sections u/s.294(b), 326 and 506(ii) IPC and the second respondent for offences u/s.323 and 506(ii) IPC in C.C.No.14 of 2012 on the file of learned Judicial Magistrate I, Panruti. The prosecution case was that the respondents 1 and 2 and de facto complainant are neighbours and there was a dispute over property between them. Owing to such dispute, on 11.10.2011 at about 07.00 p.m., the accused abused the de facto complainant in filthy language and fatally assaulted him using an iron pipe and wooden log and therefore, rendered themselves punishable for the aforesaid offences. To prove their case, the prosecution examined P.Ws.1 to 9, besides marking Exs.P1 to P8. The defence let in no oral or documentary evidence.

3. On appreciation of materials before it, the trial Court, under judgment dated 16.12.2013, acquitted the respondents 1 and 2 of all charges. There against, petitioner/de facto complainant preferred C.A.No.17 of 2014 on the file of learned Principal Sessions Judge, Cuddalore, which came to be dismissed under judgment dated 03.12.2014. Hence, this revision.

4. Heard learned counsel for petitioner, learned counsel for respondents 1 and 2 and learned Government Advocate [crl.side] for third respondent.

5. The First Information Report relating to an occurrence on 11.10.2011 at about 07.00 p.m. has been registered only on 12.10.2011 at about 04.30 p.m. The contention of the petitioner that he has been admitted in the hospital for treatment and therefore, there was a delay in registering the First Information Report has been negated by the Courts below on the reasoning that PW-2, son of the de facto complainant, could have preferred the complaint on morning of the next day. He had not done so. The First Information Report in the case came to be registered only after the police reaching the hospital upon the information received from the Government Hospital, Panruti and after recording the statement of PW-1. The reasoning of the trial Judge that the delay stands unexplained cannot be faulted.

PWs.2 and 3 are the immediate relatives of PW-1 and their presence at the scene of crime has been considered doubtful given the contradiction between the evidence of PWs.1, 2 and 3. PWs.3 and 4, independent witnesses, have turned hostile. The Courts below found that the alleged weapons used by the accused have not been recovered. Though PW-1 has been injured, the discrepancy in the 161 Cr.P.C. statement and his evidence regards the date, time and place of occurrence and the discrepancy of evidence of PWs.1 to 3 about the manner in which PW-1 had suffered injury and about how he was brought to the hospital had also been taken note of. Finding as above, the trial Court rendered a finding of acquittal and the same was affirmed by the appellate Court. The possibility of false implication cannot be ruled out and therefore, this Court would go slow in interfering with the findings of acquittal.

This Criminal Revision is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Principal Sessions Judge,  
Cuddalore.
2. The Judicial Magistrate I,  
Panruti.
3. The Sub-Inspector of Police,  
Muthandikuppam Police Station,  
Muthandikuppam.
4. The Public Prosecutor,  
High Court, Madras.

Cr1.R.C.No.189 of 2015

KGK(CO)  
CA(19/01/2016)