

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE B. RAJENDRAN

Criminal Revision Case No.1102 of 2010

S.Mary Bai

... Petitioner/Accused

Versus

State rep.by
the Sub Inspector of Police,
Minjur Police Station.
(Crime No.202 of 2007)

...Respondent/Complainant

PRAYER : Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure praying to call for the records pertaining to the Judgment dated 29.6.2010 passed in CrI.A.N.26 of 2010 by the Additional District Judge/Fast Track Court No.4, Ponneri confirming the order of conviction dated 2.2.2010 passed in C.C.No.242 of 2007 on the file of the Judicial Magistrate No.2, Ponneri and to set aside the same and allow this Criminal Revision Case.

For Petitioner

:

No appearance

For respondent

:

Mr. V. Arul,

Government Advocate (Crl.Side)

ORDER

The petitioner is the sole accused in C.C.No.242 of 2007 on the file of the learned Judicial Magistrate No.II, Ponneri and he has been convicted for the offence under section 324 IPC and sentenced to undergo simple imprisonment for 6 months and to pay a fine of Rs.2,000/-, in default to pay the fine, to undergo simple imprisonment for a period of one month. As against the conviction and sentence imposed, the petitioner filed Criminal Appeal No.26 of 2010 and the first appellate Court by judgment dated 29.06.2010 modified the judgment of the trial Court and directed the accused to pay a fine of Rs.2,000/- only and set aside the sentence of imprisonment. Aggrieved by the same, the present Criminal Revision Case is filed.

2. The case of the prosecution is that the petitioner attacked PW.1, Headmistress of Minjur Panchayat Union Primary School, when PW.1 questioned the petitioner as to why she had delayed in serving noon meal to the children at the relevant time. On the basis of a complaint given against the petitioner, the Sub-Inspector of Police of Minjur Police Station registered a case under sections 324, 353 and 506 (ii) IPC. The Trial Court proceeded with the case. Ultimately, after trial, the Trial Court convicted the petitioner only under section 324 IPC and awarded sentence as stated above. The petitioner was acquitted of the other charges.

3. In the grounds of revision petition, it is mainly contended by the petitioner that there was previous enmity between the petitioner, PW.1, and PW.2. It is further contended that earlier, the petitioner had lodged complaints to the superior officers against PW.1 and PW.2 stating that they were selling away eggs and pulses meant for noon meal in the nearby shops. Therefore, according to the petitioner, PW.1 gave a false complaint against the petitioner. Further, if the petitioner had really attacked PW.1 with wooden log, as alleged, she would have sustained external injuries. The absence of such injuries will go to show that there was no such incident happened as alleged by the prosecution. Moreover, PW.7 Doctor who examined PW.1 has clearly stated that there was no external injuries found in the right hand of PW.1. The lower Courts disbelieved the evidence of PW.1 to PW.4 for the charges under sections 353 and 506(ii) IPC and acquitted the petitioner from the said charges, however, erroneously convicted the petitioner for the offence under section 324 IPC alone.

4. On the contrary, learned Government Advocate (Criminal Side), appearing for the respondent would submit that PW.1 was attacked with wooden log by the petitioner and as a result, PW.1 sustained injuries. Ex.P.3 is the Wound Certificate. Even when the accused was questioned under section 313 Cr.P.C., before the trial Court, she did not deny such allegation. Therefore, the trial rightly convicted the accused under section 324 IPC.

5. When the Criminal Revision Case was taken up for hearing on 01.01.2015 and on 18.06.2015, none represented the petitioner. Even though the petitioner is represented by a counsel, there was no representation for the petitioner on the above said dates. Even today, there is no representation for the petitioner. As per the judgment of the Hon'ble Apex Court reported in (2013) 3 SCC 721 [K.S.Panduranga vs. State of Karnataka], even in the absence of the petitioner or respondent, this Court is empowered to deal with the matter on merits and

dispose of the same. Accordingly, this Court is inclined to take up the above Criminal Revision Case and to dispose it of on merits.

6. I heard the learned Government Advocate for the respondent and perused the materials placed on record. On perusal of the judgment passed by the trial court as well as the Appellate Court, I find that the trial court has given cogent reasons for concluding that the petitioner is guilty of the offence punishable under Section 324 of IPC. Such conclusion has been arrived at on the basis of the evidence made available by the prosecution. Even though the trial Court acquitted the petitioner for the offences under Sections 353 and 506 (ii) IPC, the trial Court found that the petitioner is guilty of the offence punishable under Section 324 of IPC on the basis of the Wound Certificate, Ex.P3. As per Ex.P3, PW1 sustained bodily injuries and that the petitioner has caused such injuries. The assault caused by the petitioner was also duly spoken to by PW.1 to PW.4 and PW.6. Thus, the prosecution has proved its case beyond all reasonable doubts against the accused for the offence under Section 324 of IPC but the appellate Court set aside the judgment of the trial Court and modified the judgment convicting the petitioner under section 324 IPC and sentenced her to pay a fine of Rs.2,000/- only considering age and other attendant circumstances of the accused. I do not find any infirmity in the conviction imposed by the appellate Court in its Judgment. Further, taking into consideration the fact that the petitioner is aged 59 years now and that she was working as a noon-meal organizer, I do not also find any reason to modify the sentence of fine imposed by the Appellate Court on the petitioner.

In the result, the Criminal Revision Case is dismissed confirming the Judgment passed by the Appellate Court.

सत्यमेव जयते
sd/

ASSISTANT REGISTRAR(CO)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

asvm/rsh

To

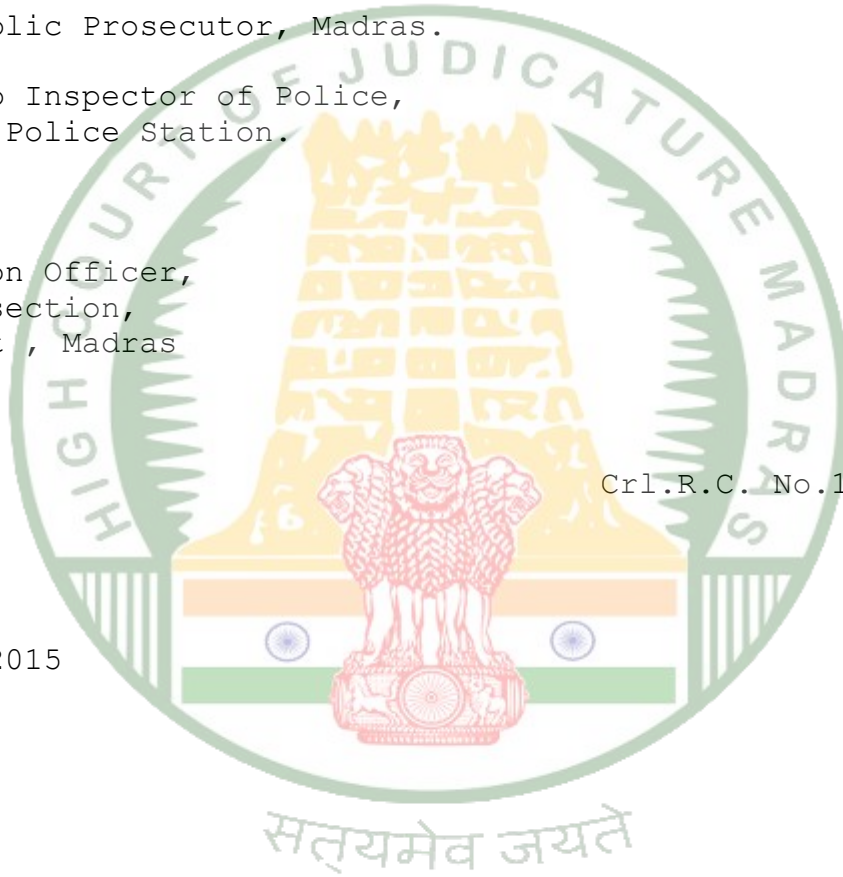
1. The Additional District Judge /
Fast Track Court No.4, Ponneri.
2. The Judicial Magistrate No.2, Ponneri.
3. Do-thro-The Chief Judicial Magistrate,
Chengalpatu.
4. The Public Prosecutor, Madras.
5. The Sub Inspector of Police,
Minjur Police Station.

Copy to:

The Section Officer,
Criminal section,
High Court , Madras

Crl.R.C. No.1102 of 2010

CO-AK
JD 28/10/2015



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