

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2015

Coram

THE HONOURABLE Mr. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 1258 of 2010

1.Jaishankar

2.Rajesh

.. Petitioners/Defacto
Complainant

Versus

1. State rep. by
The Inspector of Police,
Orathur Police Station,
Chidambaram District,
Cuddalore District.

.... Respondent/Complainant/Accused
1to4

2. Ramachandran
3. Senthil
4. Kumar

Criminal Revision Petition filed under Section 401 of Cr.P.C. to set aside the order of acquittal passed by the learned Judicial Magistrate-II, Chidambaram in C.C.No.217 of 2009. dated 09.02.2010 and punish the accused for the offence under Section 341, 324 and 506(ii) of IPC.

For Petitioners : Mr.Harinathan for
Mr.P.R.Thiruneelakandan

For Respondent-1 : Mr.V.Arul, GA

ORDER

Petitioners who were the defacto complainants have preferred the present revision to set aside the order of acquittal passed by the learned Judicial Magistrate-II, Chidambaram, in C.C.No.217 of 2009 on 09.02.2010.

2. This case has been posted today under the caption 'For Dismissal'. When the matter is taken up, the learned counsel representing for the petitioners would pray for an adjournment. However, the matter is taken up for final disposal to pass

orders on merits as per the decision rendered in K.S.Panduranga vs. State of Karnataka reported in 2013(3) SCC 721.

3. Heard the learned Government Advocate (Crl.side) for the first respondent.

4.The relevant facts leading to disposal of this Criminal Revision is thus:

A complaint has been lodged by the defacto complainant against the accused stating that the accused along with others formed an unlawful assembly and attacked them. In view of the same, a case in Crime No.217 of 2009 has been registered against the accused persons for offences under Sections 341, 324, 506 (ii) of IPC. Subsequently, the same has been taken on file in C.C.No.217 of 2009 by the learned Magistrate. However, after analysing the evidence on record, the Trial Court acquitted the accused on the ground that the eye witnesses P.Ws.3 and 4 turned hostile and prosecution has not properly established their case and also there is delay in registering the FIR. Aggrieved by the said order, the defacto complainants have preferred this revision.

5. The only ground which has been raised in the grounds of revision is that the occurrence had taken place on 15.07.2009 and on the same day itself it has been intimated to the investigating officer by P.W.9, Doctor at 6.15p.m. and on the very next day, the statement had been obtained by P.W.10. Hence, there is no improper delay in registering the FIR. It is also the case of the complainants that the court below had erred in acquitting the accused on the ground that P.Ws.3 and 4 turned hostile, without taking into consideration the fact that they were related to the accused and P.Ws.3 and 4 are son and father. It is further averred in the grounds of revision that the court below has not taken into consideration the mahazar witness P.Ws. 7 and 8 wherein, there is a clear admission that the properties were seized at the occurrence place itself. Hence, the order passed by the court below is illegal and contrary to the facts and prays for setting aside the same.

6. Learned Government Advocate (Crl.side) would submit that the court below had erred in giving a finding that in respect of the very same occurrence, there are two contradictory statements. Though the case has been registered by P.W.10 on the statement recorded from P.Ws. 1 and 2, the court below has disbelieved the same stating that there are contraction in the evidence of doctor as that of P.Ws.1 and 2 and acquitted the accused. Since P.W.3 and 4 who were eye witnesses, turned hostile, the court below has taken into consideration the same and acquitted the accused which is erroneous.

7. From the perusal of the records, it is clear that this is a case wherein the evidence has not been properly scrutinized, especially when P.Ws.3 and 4 turned hostile, it is the duty of the investigating officer to establish his case. No doubt that P.Ws. 1 and 2 were the victims and their evidences has to be

taken into consideration; but the further statement or additional statement recorded by the very same investigating officer, within a period of one hour raises suspicion in their evidence.

8. As rightly held by the court below though the first information was given by the doctor, P.W.9, in the FIR it has been stated that on the complaint given by P.Ws.1 and 2 the same has been registered which proves contradictory. In view of the foregoing, this court is of the view that the prosecution has not proved its case beyond reasonable doubt. Hence, there is no illegality or infirmity in the order passed by the court below.

In the result, this Criminal Revision Petition is dismissed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To,

1. The Judicial Magistrate-II, Chidambaram.
2. The Inspector of Police,
Orathur Police Station,
Chidambaram District,
Cuddalore District.
3. The Public Prosecutor, High Court, Madras.

Cr1.R.C.No. 1258 of 2010

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