

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-10-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Crl.R.C. No. 1409 of 2006

Navaneetham

.. Petitioner

Versus

1.Karunakaran
2.Venkatesan
3.Ravichandiran
4.Kumar
5.Ragavan
6.Selvam
7.State by

Inspector of Police
Manavala Nagar Police Station
(Crime No.51/2006)

.. Respondents

Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C. against the judgment passed in S.C.No.166 of 2005 by the learned Additional District Judge, Fast Track Court No.V, Chengalpattu at Tiruvallur, dated 30.06.2006, acquitting the accused Nos.1 to 6.

For Petitioner : Mr.R.Sasikumar

For Respondents : Mr.T.Munirathinam Naidu
for R.1 to R.6

Mr.V.Arul
Government Advocate (Crl.side)
for R.7

ORDER

The petitioner/P.W.2 has come forward with this Criminal Revision Case aggrieved against the judgment passed by the learned Additional District Judge, Fast Track Court No.V, Chengalpattu at Tiruvallur, in S.C.No.166 of 2005 dated 30.06.2006, acquitting the accused Nos.1 to 6 in a case of murder. It is alleged that due to land dispute, on 24.02.2003, at about 7.00 p.m., at Perumal Koil Street, the accused along with others armed with deadly weapons formed themselves into an unlawful assembly and assaulted many persons, in which, several persons sustained injuries and one Mani was done to death.

2. Mr.R.Sasikumar, learned counsel appearing for the petitioner/P.W.2 would submit that P.Ws.1 to 4, who are the injured persons, are clear eye witnesses to the occurrence and their version could not be assailed, and mere discrepancies, if any, are curable, but, the Trial Court has failed to take into consideration of the same and granted acquittal, which is wrong.

3. Mr.V. Arul, learned Government Advocate (Criminal Side) appearing for the seventh respondent would contend that the Trial Court has pointed out two vital discrepancies in the case of the prosecution, viz., in respect of the very lodging of the complaint and the preparation and registration of the FIR. When the complaint itself is alleged to have been lodged by P.W.1 only at 8.15 p.m., P.W.15 would clearly say that the Inspector was available at the occurrence spot at 8.00 p.m. Whether the investigation has started even prior to the complaint was the main issue. Secondly, the Trial Court also pointed out to the examination of P.W.21-Head Constable, who recorded the FIR that he received the complaint at 8.15 p.m., but, according to him, the Inspector was present in the Station, he instructed to record the FIR, but, in the footnote of the FIR, it discloses that the FIR and other records were sent to the officials and Inspector through Head Constable by special thapal, which is total contradictory, especially, when the Inspector was very well present in the Police Station, at that point of time, no body has signed in the FIR as the Investigation Officer and the FIR does not have any serial number, which discrepancy has rightly been pointed out by the Trial Court, therefore, the acquittal is correct and it needs no interference at the hands of this Court.

4. Heard both sides. By consent, the main Criminal Revision Case itself is taken up for final disposal.

5. The main edifice of the case depends on the complaint and the FIR. When it is the specific case of the complainant that he lodged the complaint only at 8.15 p.m., the Investigation Officer could not have been present at the occurrence spot at 8.00 p.m., naturally, the investigation could not precede over the complaint. Secondly, as rightly pointed out by the Trial Court, the FIR does not contain the serial number and it neither contain the signature of the Investigation Officer concerned nor the complainant. The person, who has been examined as P.W.21-Head Constable, categorically states that the Inspector was present in the Police Station and he instructed him to record the FIR, but the footnote of the FIR categorically discloses that the FIR and other records were sent to the officials and Inspector through Head Constable by special thapal, when he was very much available in the Police Station what was the necessity to sent the same by special thapal to the Inspector. More over, when the Inspector has been present in

the Police Station, where is the necessity of registering the FIR by P.W.21-Head Constable. Therefore, there is a doubt with regard to the time of lodging of the complaint and recording of FIR and when there are major discrepancies, definitely, in the case of offence under Section 302 IPC, the Trial Court has rightly given the benefit of doubt and acquitted the accused Nos.1 to 6, inasmuch as there is no specific overt act attributable against the accused Nos.1 to 6.

6. In the decision of the Hon'ble Apex Court reported in (Ram Swaroop and others vs. State of Rajasthan) (2005 SCC (Cr1.) 61) it was held that it is well settled that if two views are reasonably possible on the basis of the evidence on record, the view which favours the accused must be preferred.

7. Applying the aforesaid decision to the facts and circumstances of this case, in the present case, there are no evidence available on record to connect the accused Nos.1 to 6 to the offence complained of and the prosecution has miserably failed to establish the guilt against the accused Nos.1 to 6 beyond reasonable doubt. Therefore, I am of the view that the Trial Court has rightly acquitted the accused Nos. 1 to 6 by giving benefit of doubt. Hence, it has to be concluded that the prosecution has not proved the guilt against the accused Nos.1 to 6 beyond reasonable doubt and therefore the accused Nos. 1 to 6 are entitled to benefit of doubt.

8. Accordingly, I do not find any reason to interfere with the reasoned judgment passed by the Trial Court and the judgment of acquittal passed by the Trial Court dated 30.06.2006 stands confirmed. This Criminal Revision Case is dismissed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Inspector of Police
Manavala Nagar Police Station.

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2.The Additional District Judge,
Fast Track Court No.V,
Chengalpattu at Tiruvallur.

3.The Public Prosecutor
High Court, Madras

Cr1.R.C.No.1409 of 2006

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