

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2015

CORAM:

THE HONOURABLE MR. JUSTICE C.T. SELVAM

Cr1.R.C.No.606 of 2010

T.C.Mohanam

S/o.T.C.Chinnaraji

... Petitioner/PW1/Defacto
Complainant

Vs.

1. State By

Sub-Inspector of Police,
Aurovil Police Station,
Vannur, Villupuram District.
(Crime No.217 of 2008)

... 1st Respondent/Respondent/
Complainant

2. Rathinam

S/o.Murugesagounder

3. Annadurai

S/o.Ramasamy

4. Guna

W/o.Annadurai

... Respondents 2 to 4/Appellants/
Accused 1 to 3

Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C., to call for the records and set aside the judgment dated 23.03.2010 of the learned Principal Sessions Judge, Villupuram in C.A.No.16 of 2010 against the judgment dated 29.01.2010 of the learned District Munsif-cum-Judicial Magistrate, Vannur in C.C.No.340 of 2008.

For Petitioner : Mr.K.R.Rameshkumar

For Respondents : Mr.C.Iyyapparaj,
Government Advocate (Cr1.Side) [R1]
Mr.K.Gandhikumar [R2 to R4]

O R D E R

This revision arises against the judgment of learned Principal Sessions Judge, Villupuram, passed in C.A.No.16 of 2010, on 23.03.2010.

2. The case of the prosecution was that on 06.11.2008 at about 10.00 a.m., when the de facto complainant was engaged in construction of a compound wall using labourers, the accused obstructed them and abused the de facto complainant in filthy language as also threatened him with dire consequences. A case in Crime No.217 of 2008 on the file of first respondent was registered. Upon completion of investigation and filing of charge sheet informing commission of offence under Sections 294 (b), 341 and 506(i) IPC, the case was tried in C.C.No.340 of 2008 on the file of learned District Munsif cum Judicial Magistrate, Vannur, Villupuram District.

3. Before the trial Court, the prosecution examined five witnesses and marked five exhibits. None were examined on behalf of the defence nor were any exhibits marked. On appreciation of materials before it, the trial Court, under judgment dated 29.01.2010, convicted all the accused for offences under Section 294(b) IPC and A1 and A2 for offences u/s.341 and 506(i) IPC and sentenced them to pay fine of Rs.500/- each i/d. 1 week S.I. for offence u/s.294(b) IPC, fine of Rs.500/- each i/d 1 week S.I. for offence u/s.341 IPC and fine of Rs.2,000/- each i/d 3 month S.I. for offence u/s.506(i) IPC. There against, the accused preferred C.A.No.16 of 2010 on the file of learned Principal Sessions Judge, Villupuram, which came to be allowed under judgment dated 23.03.2010. Hence, this revision.

4. Heard learned counsel for petitioner, learned Government Advocate [Crl.side] for first respondent and learned counsel for respondents 2 to 4.

5. In acquitting the accused, the appellate Court found that PW-1/de facto complainant has not mentioned in the complaint about the previous enmity between him and the accused, whereas in the cross-examination, he has admitted that there was a dispute over the very same property and a civil suit is pending. Hence, the appellate Court found the contention of the defence that the de facto complainant constructed the compound wall in

the place belonging to the Panchayat and when the same was questioned by A1 and A3, in the capacity of former Panchayat President and Ward Member, the present complaint has been filed on false allegations, tenable. There were discrepancies in the complaint of PW-1 and his evidence. Persons viz., Raja, Murali and Pandiyan, who are eye witnesses to the occurrence, have not been examined. As regards the charge u/s.294(b) IPC, the appellate Court found that there were contradictions in the complaint of PW-1 and his evidence regards the words used by the accused. When the occurrence was said to have taken place in a public place, non-examination of independent witnesses was fatal to the prosecution case. While PW-1 has informed of threat having been issued by accused 1 and 2 during enquiry, in the Court, he has deposed to having been threatened by accused 1 and 3. PW-2, an alleged eye witness to the occurrence, deposed of the accused 1 and 3 having threatened the de facto complainant. PW-2 has not deposed that all the accused threatened the de facto complainant. The appellate Court further found that though occurrence in the case has taken place on 06.11.2008, the First Information Report has been registered only on 09.11.2008. Though it was the prosecution case that the complaint preferred by PW-1 has been taken as a petition owing to which there was a delay in registering the First Information Report, the said contention was found untenable by the appellate Court as PW-5, Sub-Inspector, deposed to having conducted investigation initially and thereafter, having registered the First Information Report, which was indicative of the fact that the police was hand-in-glove with the de facto complainant. This Court finds the reasoning of the appellate Court in rendering a finding of acquittal, justified.

In the result, this Criminal Revision stands dismissed.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

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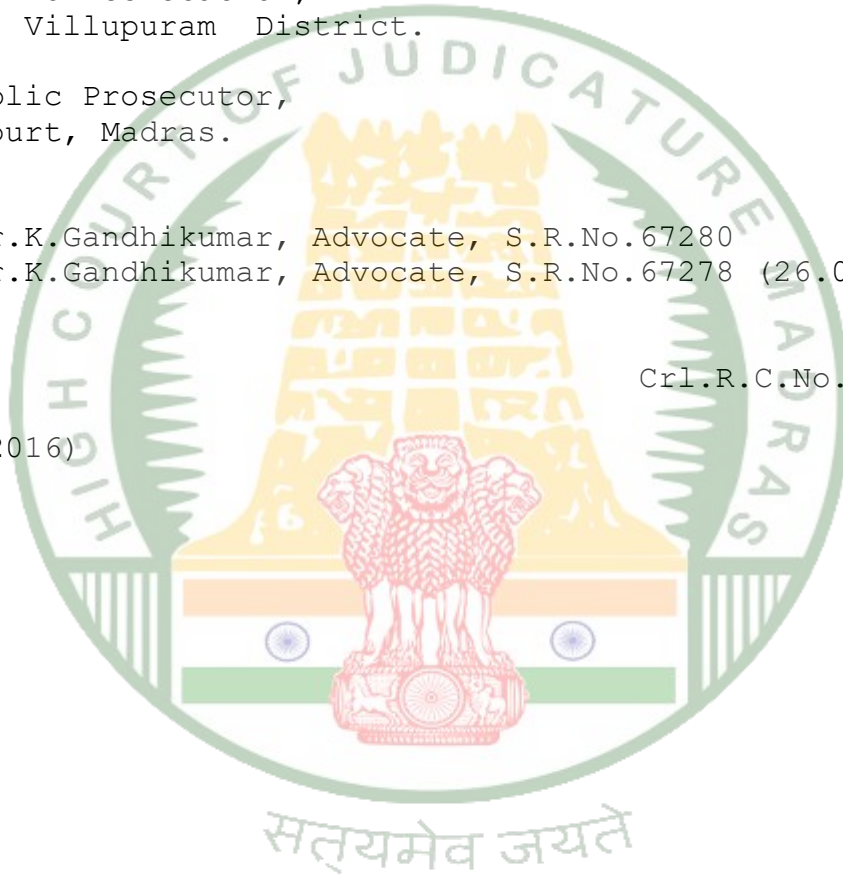
1. The Principal Sessions Judge,
Villupuram.
2. The District Munsif cum Judicial Magistrate,
Vannur,
Villupuram District.
3. The Sub-Inspector of Police,
Aurovil Police Station,
Vannur, Villupuram District.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Gandhikumar, Advocate, S.R.No.67280

+1cc to Mr.K.Gandhikumar, Advocate, S.R.No.67278 (26.05.2016)

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BVR(CO)
CA(18/01/2016)



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