

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08-09-2015

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 567 of 2009

Shanta Dowie

.. Petitioner

Versus

1. State by Inspector of Police  
R1, Mambalam Police Station  
Chennai  
Cr.No.504 of 2006.

2. Balasubramani  
@ Karte Balasubramani

3. P.Chandrakala

4. Anjalai

.. Respondents

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. against the judgment of acquittal passed by the learned XVII Metropolitan Magistrate, Saidapet, Chennai, in C.C.No.6165 of 2006, dated 20.04.2009, whereby, respondents 2 to 4 were acquitted for the offences under Sections 342, 324 read with 34 IPC.

For Petitioner

:Mr.M.Vijayakumaran

For Respondents

:Mr.V.Arul,

Government Advocate (Crl.Side)  
for first respondent.

Service Awaited/Not ready Notice  
for R.2 to R.4

ORDER

The revision petitioner/P.W.1 is the defacto complainant in C.C. No. 6165 of 2006 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai. The petitioner is aggrieved by the judgment dated 20.04.2009 passed by the learned XVII Metropolitan Magistrate, Saidapet, Chennai, in C.C.No.6165 of 2006, dated 20.04.2009, whereby, respondents 2 to 4 were acquitted for the alleged offences under Sections 342, 324 read with 34 IPC.

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2. The case of the prosecution is that on 14.06.2006, the petitioner is alleged to have been threatened by the second

respondent and he instigated respondents 3 and 4 to assault the petitioner and therefore, they assaulted the petitioner and the petitioner was bitten by respondents 2 and 3 and hence, alleging that accused Nos.1 to 3 have committed the offences punishable under Sections 342 and 324 read with 34 IPC, a complaint was lodged. After investigation and filing of the final report, the case was taken on file as C.C. No. 6165 of 2006 by the learned XVII Metropolitan Magistrate, Saidapet, Chennai. After trial, the case put forth by the prosecution was not believed and the accused Nos. 1 to 3 were acquitted of the charges levelled against them. Aggrieved against the same, the defacto complainant/P.W.1 has filed the present Criminal Revision Case.

3. Mr.M.Vijayakumaran, learned counsel appearing for the petitioner would submit that the Trial Court has not properly appreciated the evidence of the prosecution witnesses. He would further submit that merely because, P.W.3, who is an independent witness, has turned hostile, it may be not be a reason to come to a conclusion that it affects the case of the prosecution and the offence against accused Nos.1 to 3 has not been made out. He would further add that the evidence of P.Ws.1, 5 and 6 and Exs.P.1 and P.4 are strong enough to prove the guilt of accused Nos.1 to 3, but, the same was not considered by the Trial Court in a proper perspective, therefore, the Trial Court ought not to have acquitted all the accused by giving the benefit of doubt.

4. Mr.V.Arul, learned Government Advocate appearing for the first respondent would contend that the Trial Court has taken into consideration that the only independent witness, viz., P.W.3 has totally turned hostile, he has not supported the case of the prosecution and his evidence does not corroborate with the evidence of P.W.1, therefore, the Trial Court has rightly acquitted respondents 2 to 4.

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

6. Taking into consideration the entire evidence of the case as well as the judgment passed by the Trial Court, one thing is clear, the Trial Court has rightly pointed out that except the ipse dixit of P.W.1, no evidence is available to corroborate with his evidence. The only independent witness P.W.3 has turned hostile and he has not supported the case of the prosecution and his evidence does not corroborate with the evidence of P.W.1 and there is no circumstantial evidence available to connect the involvement of accused Nos.1 to 3 with the crime and hence, the Trial Court has rightly pointed out that the prosecution has miserably failed to establish the guilt against all the accused beyond reasonable doubt.

7. It is needless to point out that to set aside the judgment of acquittal, the Court has to see, whether there is an extraordinary evidence or there is a palpable wrong committed by

the Court below. On a careful analysis of the entire evidence available on record and the judgment passed by the Court below, it is clear that the Trial Court has analysed the evidence in its entirety and has categorically stated that the the only independent witness, viz., P.W.3 has totally turned hostile, he has not supported the case of the prosecution and his evidence does not corroborate with the evidence of P.W.1 and has rightly arrived at the conclusion to acquit respondents 2 to 4 by giving benefit of doubt, inasmuch as there is no specific overt act attributable against all the accused.

8. In the decision of the Hon'ble Apex Court reported in (Ram Swaroop and others vs. State of Rajasthan) (2005 SCC (Crl.) 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.

9. 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 all the accused to the offence complained of and the prosecution has miserably failed to establish the guilt against all the accused beyond reasonable doubt. Therefore, I am of the view that the Trial Court has rightly acquitted all the accused by giving benefit of doubt. Hence, it has to be concluded that the prosecution has not proved the guilt against all the accused beyond reasonable doubt and therefore, all the accused are entitled to benefit of doubt.

10. Accordingly, the judgment of acquittal passed by the Trial Court dated 20.04.2009 stands confirmed. This Criminal Revision Case is dismissed.

-Sd/-

Assistant Registrar

//True copy//

सत्यमेव जयते  
Sub Assistant Registrar

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To

1. The Inspector of Police  
R1, Mambalam Police Station  
Chennai.

2. The XVII Metropolitan Magistrate,  
Saidapet, Chennai.

3. The Public Prosecutor,  
High court, Madras.

Crl.R.C. No. 567 of 2009