

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Cr1.R.C.No.638 of 2010

Siva

..Petitioner/Defacto
complainant

vs.

1.The State

Rep. By Inspector of Police
Kottakuppam Police Station
Villupuram District

2.Bhaskar

.. Respondents

Criminal Revision filed under Section 397 and 401 Cr.P.C.,
against judgment in S.C.No.15/2008 on the file of Additional
District and Sessions Judge (Fast Track No.1) Tindivanam dated
15.05.2008.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.V.Arul, Government
Advocate for R1

O R D E R

This revision arises against judgment of acquittal rendered
by learned Additional District and Sessions Judge (Fast Track
No.1), Tindivanam, in S.C.No.15 of 2008, on 15.05.2008.

2. The case in S.C.No.15 of 2008 was tried for offence
under Section 302 of the Indian Penal Code (hereinafter called
as "IPC"). The prosecution case was that on 08.11.2007, at about
8.00 p.m., when the defacto complainant and his father and
others were conversing at Mathur, the second respondent/accused
viz., Bhaskar came by, questioned one Kesava Chettiar and beat
him over such person having taken a bottle of brandy. The
defacto complainant's father Harikrishnan (deceased) intervened,
angered thereby, the accused ran to his house, brought an iron

rod and attacked the deceased, causing a head injury. The deceased was taken to Pondicherry PIMS Hospital. He however passed away. A case in Crime No.591 of 2007 on the file of Kottakuppam Police Station, was registered. Upon completion of investigation and filing of charge sheet informing commission of offences u/s.302 IPC, the case was tried in S.C.No.15 of 2008 on the file of learned Additional District and Sessions Judge, Tindivanam. The complaint given by the defacto complainant/P.W.1 has been marked as Ex.P.1.

3. Before trial Court, prosecution examined 22 witnesses and marked 18 exhibits and 2 material objects. None were examined on the side of defence nor were any exhibits marked. Trial Court, on appreciation of materials, acquitted the accused/second respondent, under judgment dated 15.05.2008. Aggrieved thereby, appellant/defacto complainant has preferred this revision.

4. Heard Mr.V.Raghavachari, learned counsel for appellant and Mr.V.Arul, learned Government Advocate [Crl.side] for first respondent.

5. In acquitting the accused, trial Court, as regards the evidence of P.W.13, Doctor, found that he did not follow the minimum legal requirements and failed to record dying declaration from the deceased and further, his evidence to the effect that he initially examined the deceased on 10.11.2007 created a doubt as to whether the occurrence took place on 08.11.2007. Secondly, the trial court has found that the main eyewitness Kesavan has not been examined on the side of the prosecution, which makes the prosecution case unbelievable. The evidence of doctor, who conducted post mortem, was to the effect that the deceased died due to injuries sustained by him to the front of the head, whereas, in the complaint in Ex.P.1, P.W.1 has stated that the accused had hit the accused with an iron rod on the back side of the head. For the above and several other reasons, trial Court acquitted the accused of offence under sections u/s.302 IPC. This Court finds no error in the judgment under challenge.

In the result, this Criminal Revision is dismissed. Consequently, connected miscellaneous petition is dismissed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Additional District and Sessions Judge
(Fast Track No.1)
Tindivanam.

2. The Principal District Judge,
Villupuram District

3.The Inspector of Police
Kottakuppam Police Station
Villupuram District

4. The Public Prosecutor High Court,
Madras

+1 cc to Mr.V.Raghavachari Advocate sr.66089

Crl.R.C.No.638 of 2010

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