

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Cr1.Revision Case No.626 of 2009

Reema Kosain

.. Petitioner

vs

1. Lvin George

2. The Inspector of Police
K-4, Anna Nagar Police Station
Chennai 600 040.

.. Respondents/
Accused/Complainant

Criminal Revision Case filed under Sections 397 read with Sec. 401 of Cr.P.C. against the order of acquittal dated 11.08.2008 passed by the learned Additional District and Sessions Judge, Fast Track Court No.IV, Chennai in S.C.No.235 of 2008.

For Petitioner : No appearance

For Respondents : Mr.V.Arul
Government Advocate
(Criminal side) for R2
R1-No appearance

ORDER

When the matter was listed on 26.08.2015 and 02.09.2015, there was no representation for the petitioner. Hence, the matter was directed to be listed today under the caption "for dismissal". Even today, there is no representation for the petitioner. On a perusal of the docket sheet, it is seen that after the matter was admitted on 06.07.2009, and the matter has been kept pending for the past six years. Hence, the Criminal Revision Case is taken up for disposal on merits as per the judgment of the Hon'ble Supreme Court reported in (2013) 3 SCC 721 [K.S.Panduranga vs. State of Karnataka].

2. This revision is filed as against the order of acquittal dated 11.08.2008 passed by the learned Additional District and Sessions Judge, Fast Track Court No.IV, Chennai in S.C.No.235 of 2008 in acquitting the first respondent/accused

for the alleged offence under Sections 450, 324, 506(ii) and 307 of IPC.

3. The case of the prosecution is that the accused attacked PW2/the petitioner herein in her residence with knife and caused injury to her and her son.

4. As per the grounds of revision, the only point raised before this Court is that after the incident, the First Information Report was lodged immediately and it was taken to the Court immediately. She would further contend that PW1 is a minor boy, who may not be able to depose properly. However, the Court below disbelieved the evidence adduced on the prosecution side and had given the benefit of doubt to the accused by acquitting him. She would further contend that the Court below failed to consider the confession made by the accused himself and also the recovery of objects. Accordingly, she would pray for setting the order of acquittal passed by the Court below.

5. Learned Government Advocate (Criminal side) appearing on behalf of the second respondent would submit that the Court below after analysing the entire oral and documentary evidence adduced on the side of the prosecution, disbelieved the same and acquitted the accused.

6. Perused the records.

7. On a perusal of the order passed by the Court below, it is seen that it has dealt with the matter in detail and has stated as to how the FIR has been prepared by the prosecution, which cannot be even believed. It has held that the minor boy in his chief examination has stated that without anyone help he has preferred the complaint. Further, he has stated that the accused was brought to the hospital, where the minor boy has identified him. The Court below has further held that though the petitioner claims that she was stabbed by the accused and immediately she was admitted into the hospital, on a perusal of the Admission Register issued by the hospital, it is seen that the petitioner was admitted into the hospital only on the sixth day of the alleged occurrence. Hence, there are so many discrepancies in the FIR lodged and held that the very FIR itself is doubtful. Further, PWs.8 and 9 have deposed before the Court that they have been called by PW6, to be witnesses in the case. Hence, the Court below has held that these incidents creates a doubt in the mind of the Court.

8. The Court below has further held that even in the seizure of properties of the witnesses, there are discrepancies. According to PW2, the petitioner herein, the Investigating Officer has obtained a blood stained night gown from the husband of the petitioner from the hospital, whereas she has identified

MO2, which is a Salwar Kamiz. Even the seizure of knife and the motor cycle belonging to the accused was not supported by mahazar witnesses. Hence, it has held that the seizure facts were fully contradictory between one witness and another. Further the Court below has also held that the documents produced have been manipulated by the prosecution side.

9. Therefore, the Court below has held that there are several contradictions between the prosecution witnesses and the genesis of the very FIR itself is doubtful as there was no independent witnesses supporting the prosecution. Further, the lady Doctor who investigated the petitioner has not been examined in this case and no plausible explanation is forthcoming for not examining the lady Doctor. In view of the above stated reasons, I am of the view that the court below is justified in giving the benefit of doubt in favour of the accused.

10. In the decision of the Honourable Supreme Court reported in (Ram Swaroop and others vs. State of Rajasthan) (2005 SCC (CrI.) 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. Similarly, it is well settled that if the view taken by the trial court, while acquitting the accused is a possible, a reasonable view on the basis of evidence on record, the High Court need not interfere with such an order of acquittal merely because it is possible to take a contrary view.

11. It is evident from the aforesaid judgment of the Honourable Supreme Court that this Court cannot appreciate the evidence and interfere with the order of acquittal passed by the trial court if the view taken by the trial court is also a reasonable view on the basis of evidence on record and the evidence recorded by the trial court are not manifestly erroneous, contrary to the evidence on record or perverse. In this case, the revision petitioner is unable to establish by any valid evidence that the order passed by the Court below is perverse or contrary to evidence available on record.

12. 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 to the offence complained of and the prosecution has miserably failed to establish the guilt against the accused beyond reasonable doubt. Therefore, I am of the view that the order of acquittal passed by the court below is reasonable, plausible and it need not be slightly brushed aside. I do not find any reason to interfere with the order of acquittal passed by the court below. The Criminal Revision Case is therefore dismissed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

vj2
To

1. The Vth Metropolitan Magistrate
Egmore, Chennai-8

2. -do-Thro' The Chief Metropolitan Magistrate
Egmore, Chennai-8

3. The Additional District and Sessions Judge
Fast Track Court No. IV, Chennai.

4. -do-Thro' The Principal Sessions Judge, Chennai

5. The Inspector of Police,
K-4 Anna Nagar Police Station
Chennai-40

6. The Public Prosecutor, Madras.

skv(co)
aa24/11/2015

Cr1.R.C.No.626 of 2009