

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2015

C O R A M

THE HONOURABLE MR.JUSTICE S. NAGAMUTHU

Criminal Revision Case No.628 of 2009
and M.P.No.1 of 2009

A.Sivakumar

... Petitioner

Vs.

1. State rep. by the Sub-Inspector of Police,
Alagauram Police Station,
Salem District.
 2. Nallathambi
 3. Kamaraj
 4. Venkatesan
 5. Jayavel
- ... Respondents

Criminal Revision Case filed under Section 397 and 401 of Cr.P.C. to call for the records and set aside the order passed in C.M.P.No.9450 of 2008 on the file of the Judicial Magistrate No.5, Salem dated 17.06.2009 in C.C.No.172 of 2008 on the file of the Judicial Magistrate No.V, Salem and allow this revision.

For petitioner : Mr.B.Vasudevan

For 1st respondent : Mr.V.Arul,
Government Advocate (Crl. Side)

For respondents : No appearance
2 to 5

O R D E R

The petitioner is the de facto complainant in the case in C.C.No.172 of 2008 on the file of the learned Judicial Magistrate No.V, Salem. The respondents 2 to 5 are the accused in this case. The trial court has framed charges against them under Sections 324 and 506(ii) of IPC. During the trial, the petitioner filed C.M.P.No.9450 of 2008 seeking alteration of the charges. That petition was dismissed by the learned Magistrate by order dated 17.06.2009. Challenging the same, the petitioner is before this Court with this revision.

2. I have heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the 1st respondent-State and there is no representation for the respondents 2 to 5. I have also perused the records carefully.

3. The learned Counsel for the petitioner would submit that the injury sustained by the petitioner was so serious and thus, the offence committed by the accused would fall under Section 307 of IPC. In order to substantiate the same, the petitioner has produced a photograph taken after the occurrence. But the trial court has dismissed the said petition because from the photograph of the defacto complainant, no reasonable conclusion could be arrived at in respect of the injury said to have been caused by the accused. It is, against the said order, the petitioner is before this Court with this revision.

4. In my considered opinion, the trial court was right in dismissing the petition, because, it is not at all possible to arrive at any reasonable conclusion from and out of the photograph of the injured. It is for the defacto complainant to depose before the trial court and as rightly observed by the trial court, during the course of trial, if it is found that any major offence has been committed, certainly, the trial court shall alter the charges at any stage. Therefore, I do not find any infirmity in the order passed by the trial court, warranting interference at the hands of this Court.

5. In the result, the Criminal Revision Case fails and the same is accordingly dismissed. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1. The Sub-Inspector of Police,
Alagauram Police Station,
Salem District.

2. The Public Prosecutor,
High Court, Madras

3. The Judicial Magistrate No.V
Salem

4. do thro the Chief Judicial Magistrate
Salem

copy to

The Section Officer
Criminal Section,
High Court, Madras

Cr1.R.C.No.628 of 2009

AK (CO)
kk 30/6



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