



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-09-2015

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Crl.R.C. No. 73 of 2010

Chitharanjan

.. Petitioner /PW2

Versus

1.State by Inspector of Police
Walajabath Police Station
Kancheepuram District
(Crime No.52 of 2007)

- 2.Magesh
- 3.Jesi
- 4.Sarasu
- 5.Asha @ Hemavathi
- 6.Geetha
- 7.Kumar
- 8.Saravanan
- 9.Ramesh
- 10.Chandrasekar
- 11.Selvam
- 12.Selvi
- 13.Murugan
- 14.Santhakumar
- 15.Velu
- 16.Prakash
- 17.Selvam
- 18.Kumar
- 19.Anbu
- 20.Deva
- 21.Kanniappan
- 22.Rajendran, S/O Gopal
- 23.Rajendran, S/O Kannan
- 24.Mohan
- 25.Mani
- 26.Kumar
- 27.Geevarathinam
- 28.Dhanasekar
- 29.Ravi
- 30.Nagappan
- 31.Amavasai
- 32.Mani
- 33.Gopal
- 34.Raj, S/O Amavasai
- 35.Chinnathambi
- 36.Ayyappan
- 37.Shankar, S/O Nagappan
- 38.Muthu



39.Shankar, S/O Mani
40.Suresh
41.Chithirai
42.Shankar, S/O Subramani
43.Murugan
44.Ramesh
45.Sathiya
46.Chitra
47.Jayanthi
48.Ellammal
49.Shanthi
50.Gowri
51.Vijaya
52.Krishnan
53.Raj, S/O Rathinam
54.Raji

.. Respondents/Accused 1 to 53

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. against the judgment passed by the learned Assistant Sessions Judge, Kancheepuram, Kancheepuram District, in S.C.No. 248 of 2008, dated 28.08.2009, acquitting the accused / Respondents for the offences under Sections 147, 148, 341, 323, 324, 326 and 307 read with 149 IPC.

For Petitioner : Mr.T.R.Ravi

For Respondents : Mr.V.Arul
Government Advocate
(Criminal Side) for R.1

Ms.N.S.Tanvi for Dr.V.Suesh
for respondents 2 to 50 to 54

ORDER

This Criminal Revision Case is filed by the petitioner having aggrieved over the judgment passed by the learned Assistant Sessions Judge, Kancheepuram, Kancheepuram District, in S.C.No. 248 of 2008, dated 28.08.2009, whereby, the respondent Nos. 2 to 54/accused Nos. 1 to 53 were acquitted of all the charges levelled against them.

2. The case of the prosecution is that on 21.02.2007, at about 4.00 p.m., one Kannadhasan along with friends, viz., Chitharanjan and Thanigaivel, were travelling in a bus, which was proceeding towards Kilottivakkam Village. The witness Kannadhasan is alleged to have eveteaded accused Nos. 3, 4 and 9. When the bus was proceeding further, accused No.9 is alleged to have contacted some one through cell phone. Thereafter, Kannadhasan got down from the bus. At about 5.00 p.m., when the bus reached the bus stop of Kannigapuram Village Panchayat, accused Nos. 1 to 53 along with others were alleged to have unlawfully assembled together and they were armed with deadly weapons like knife, iron pipe and wooden log and with the common intention to cause death, the accused Nos.1 to 53 were alleged to have dragged Chitharanjan and Thanigaivel, who were friends of Kannadhasan, from the bus and



assaulted them and accused Nos.1 to 53 were alleged to have taken them to A.M.M.Kalyana Mandapam, Kanigapuram Main Road and assaulted them with deadly weapons like knife and wooden log by tying their hands, as a result of which, they sustained grievous injuries. One Dayalan/P.W.1 had telephoned to Chitharanjan and he came to know about the incident. When Dayalan/P.W.1 along with others went to the above Mandapam at 5.00 p.m. and questioned the same, they were also attacked by some accused persons. Hence, alleging that accused Nos.1 to 53 have committed the offences punishable under Sections 147, 148, 341, 323, 324, 326 and 307 read with 149 IPC, a complaint was lodged. After investigation and filing of the final report, the case was taken on file in S.C. No. 248 of 2008 on the file of the Assistant Sessions Court, Kancheepuram District. After trial, the case put forth by the prosecution was not believed and accused Nos. 1 to 53 were acquitted of all the charges levelled against them. Aggrieved against the same, Chitharanjan/P.W.2 has filed the present Criminal Revision Case.

3. Mr.T.R.Ravi, 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 the petitioner/Chitharanjan along with Thanigaivel were taken to a Kalyana Mandapam and their hands were tied and they were assaulted by using deadly weapons like knife, iron rod and wooden log and when that has been proved by the prosecution, the Trial Court ought to have taken into consideration the effect of the injury caused to the defacto complainants and they ought to have been convicted, instead of giving benefit of doubt, especially, the non-examination of Kannadhasan as a witness cannot be a reason to acquit accused Nos. 1 to 53.

4. Ms.N.S.Tanvi, learned counsel appearing for the respondents 2 to 54 vehemently argued that the Trial Court has taken into consideration that the revision petitioner along with one Kannadhasan were the root cause for the occurrence and they have started the trouble by eveteasing accused Nos. 3, 4 and 9. Thereafter, when the bus was proceeding further, accused No.9 is alleged to have contacted some one through cell phone. Thereafter, Kannadhasan got down from the bus. At about 5.00 p.m. when the bus reached the bus stop of Kannigapuram Village Panchayat, accused Nos. 1 to 53 along with others were alleged to have unlawfully assembled together and took them to A.M.M.Kalyana Mandapam, Kanigapuram Main Road and assaulted them. Admittedly, Kannadhasan, who was alleged to have eveteased accused Nos. 3 and 4, was not cited as a witness and he was not examined, which is fatal to the prosecution case and the same has been rightly pointed out by the Trial Court. The learned counsel further pointed out that the evidence of Doctor, who was examined as P.W.12, has been properly taken into consideration, who in his evidence has categorically stated that the injury sustained by P.Ws. 2 and 3, were very simple in nature and the injuries sustained by them do not correlate with the use of deadly weapons like iron rod, knife, etc., and therefore, the Trial Court has rightly given the benefit of doubt to accused Nos. 1 to 53 and acquitted them and therefore, the judgment of acquittal passed by the Trial Court is liable to be confirmed and it needs no interference at the hands of this Court

5. I have heard the counsel appearing for both sides and I have perused the materials available on record.



6. 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. In this case, there are 53 accused. The case of the prosecution is that on 21.02.2007, at about 4.00 p.m., one Kannadhasan along with friends, viz., Chitharanjan and Thanigaivel, were travelling in a bus, which was proceeding towards Kilottivakkam Village. The witness Kannadhasan is alleged to have eveteaded accused Nos. 3 and 4 along with accused No.9. When the bus was proceeding further, accused No.9 is alleged to have contacted some one through cell phone. Thereafter, Kannadhasan got down from the bus. At about 5.00 p.m. when the bus reached the bus stop of Kannigapuram Village Panchayat, accused Nos. 1 to 53 along with others were alleged to have unlawfully assembled together and they were armed with deadly weapons like knife, iron pipe and wooden log and with the common intention to cause death, the accused Nos.1 to 53 were alleged to have dragged Chitharanjan and Thanigaivel, who were friends of Kannadhasan, from the bus and assaulted them and accused Nos.1 to 53 were alleged to have took them to A.M.M.Kalyana Mandapam, Kanigapuram Main Road and assaulted them with deadly weapons like knife and wooden log by tieing their hands, as a result of which, they sustained grievous injuries. There is evidence of Doctor, who was examined as P.W.12, who has deposed to the effect that the injury sustained by P.Ws. 2 and 3, were abrasions and contusions and they were very simple in nature. Therefore, as rightly pointed out by the Trial Court, the injuries sustained by the injured persons do not correlate with the use of deadly weapons like iron rod, knife, etc. Of course, this Court feels pain to state that unfortunately, the injured persons were beaten up and they sustained injuries, but the manner in which they were beaten up and the weapons used and the persons, who actually assaulted them, were not properly proved beyond reasonable doubt. Further, one Kannadhasan, who is the root cause for the occurrence, has been travelling along with the petitioner/Chitharanjan and Thanigaivel, but, the said Kannadhasan has not been cited as a witness and he was not examined, which is vital to the prosecution case and as rightly pointed out by the Trial Court, the non-examination of the said witness is fatal to the prosecution case, therefore, rightly the Trial Court has given the benefit of doubt and acquitted accused Nos.1 to 53, inasmuch as there is no specific overt act attributable against them.

7. In the decision of the Hon'ble Apex 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.

8. Applying the aforesaid decision to the facts and circumstances of this case, in the present case, there is 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 acquittal by giving benefit of doubt.



9. Accordingly, the judgment of acquittal passed by the Trial Court dated 28.08.2009 stands confirmed. This Criminal Revision Case is dismissed.

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sd/-
ASSISTANT REGISTRAR (J)

/ TRUE COPY /

SUB-ASSISTANT REGISTRAR

paa

To

1. The Inspector of Police
Walajabath Police Station
Kancheepuram District.
2. The Assistant Sessions Judge,
Kancheepuram,
Kancheepuram District.
- 2a. Do thro the Principal Sessions
Judge, Kancheepuram
3. The Public Prosecutor
High Court, Madras

+1 CC to Mr.T.R.Ravi Advocate. SR.NO. 49397
+1 CC to Dr.V.Suresh Advocate. SR.NO. 49115

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CO-SAI
JD 14/10/2015