

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.4.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 896 of 2010

Selvi

.. Petitioner

Versus

1. Station House Officer
Vikravandi Police Station
Villupuram District

2. Narayanan
3. Ayyappan
4. Gunasekaran
5. M.G.R. @ Ramachandiran
6. Anbarasan
7. Gowri
8. Sarathambal
9. Vennila

... Respondents

Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C. against the judgment of the learned II Additional Assistant Sessions Judge, Villupuram in S.C.No.341 of 2009 dated 22.6.2010 acquitting the respondents 2 to 9.

For Petitioner : Mr. C.D.Johnson

For R1 : Mr. D.Sivaramkumar
Government Advocate (Criminal side)

For R2 to R9 : Mr.M.Devaraj

ORDER

The revision petitioner is the defacto complainant and she has come forward with this Criminal Revision Petition aggrieved by the order of acquittal passed by the court below, acquitting the accused/ respondents 2 to 9 herein.

2. It is the case of the prosecution that on 26.6.2007 at 18.00 hrs., while P.W.1 was returning back to her house after selling cucumber, accused persons forms themselves together unlawful assembly in continuation of the quarrel with A2' son, and his son namely, P.W.2, who assaulted A8 with stone. When questioned about the act, the second accused abused P.W.1 in filthy words and assaulted on her left cheek with his hands. On the same day at about 19.30 hrs., all accused persons came to P.W1's house and assaulted P.W.1 and her son with wooden logs; at 23.00 hrs., accused A2, to A6 came to PW1's son and A3 shouted as he will burn P.W.1, A2 set fire on P.W1's house;

PW1 and her mother started shouting. A5 and A6 threatened them with dire consequences and also caused damages to the tune of Rs.1,00,000/- to the defacto complainant. Based on the complaint, Ex.P1 from P.W1, the Inspector of Police, Vikravandi Police Station registered FIR on 01.11.2007 and he registered a case in Cr.No.606 of 2007 under Section 147, 294, 353, 323, 109, 436, 506(ii) IPC as per FIR. After investigation, the second respondent laid the charge sheet before the court below and it was taken on file in S.C. No.341 of 2009.

3. Before the court below, on behalf of the prosecution, the petitioner examined herself as PW1, and six other witnesses, Pws 2 to 7 were examined and Ex. P1 to P5 were marked besides MOs 1 to 4. Upon trial, the trial court dismissed the Sessions Case and acquitted the accused of all the charges by concluding that the prosecution has not proved the case beyond reasonable doubt.

4. The learned counsel appearing for the petitioner mainly argued that the Court below acquitted the accused only on the ground of delay in preferring the complaint, which is not correct. According to the learned counsel, as there was a compromise entered into between the parties in the Mediation before the Village Panchayat, wherein the respondents have agreed to pay a sum of Rs.15,000/- towards compensation and also agreed to put up new thatched house, the complaint was not given. Since the respondents failed to act upon the compromise entered, the complaint has been given and as such, the delay has occurred. But the Court below, without considering the same, has acquitted the accused, which is not correct. The learned counsel also submitted that the court below, failed to consider the evidence of P.W.2, who is a child categorically spoke regarding the motive and occurrence. However, the learned counsel fairly submitted that the petitioner would be satisfied if any compensation amount is fixed for putting up a thatched house.

5. On the above submission, I heard the learned Government Advocate appearing for the second respondent/State as well as the learned counsel for the respondents 2 to 9 and perused the materials on record. By consent of both sides, the Criminal Revision itself is taken up and disposed of.

6. The accused stood charged for an offence punishable under Section 147, 294 (b), 352, 436 and 506 (2) IPC read with 149 IPC. The trial court disbelieved the version of the prosecution witness and acquitted all the accused in this case.

7. Revision petitioner's house was ransacked by the accused by setting fire, pursuant to the dispute between their children in the school. There was a compromise between the parties in the Mediation before the Village Panchayat. As per the compromise, a sum of Rs.15,000/- was paid by the accused. In the Mediation, it was also agreed that the burnt house would be rebuilt. But subsequently, that was not acted upon. Therefore, there was a delay in preferring the complaint. The said fact has been clearly established before the Court below.

8. There is no dispute with regard to the compromise entered into between the parties in the Mediation before the village panchayat. Though the respondents paid a sum of Rs.15,000/- as per the compromise entered, they have failed to put up a thatched house. In such view of the matter, the Court below ought not to have dismissed the case on the ground of delay especially when it is proved that there was a compromise between the parties.

9. It is the case of the respondents/ accused that the respondents have not been directly involved and, therefore, the Court below have rightly acquitted the respondents. However, the learned counsel for the respondents submitted that in order to give quietus to the matter, the respondents are willing to pay some amount towards compensation. The learned counsel for the respondents also submitted that the respondents have already paid a sum of Rs.15,000/- towards compensation as per the compromise entered in Mediation before the Village Panchayat and the same has also been admitted by the learned counsel for the petitioner.

10. Admittedly, the occurrence took place in the year 2007. Since both sides have given consent that some reasonable amount may be fixed towards compensation for putting up hut, instead of remanding the matter to the Court below, in the interests justice, a sum of Rs.50,000/- is fixed as compensation to be payable by the respondent to the petitioner. Since it is admitted by the learned counsel for the petitioner that already a sum of Rs.15000/- has been received towards compensation as per the compromise entered in Mediation before the Village Panchayat, the respondents 2 to 9 are directed to pay the remaining sum of Rs.35,000/- to the petitioner directly by way of Demand Draft within a period of six weeks from the date of receipt of a copy of this order. If the respondents fail to pay the said amount within the above stipulated period, the same will be recovered as fine by the Court.

With the above direction, the Criminal revision is disposed of.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ga
To

1. II Additional Assistant Sessions Judge, Villupuram.
2. The Station House Officer/Vikaravndi Police Station, Villupuram.
3. The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr.M.Devaraj, Advocate SR.21546

+ 1 cc to Mr.C.D. Johnson, Advocate SR.21609

CNR (CO)

<https://hcservices.ecourts.gov.in/hcservices/>

EU 21.05.2015

Cr1 RC No.896 of 2010