

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.9.2015

CORAM:

THE HONOURABLE MR.JUSTICE B. RAJENDRAN

CRL. RC. No. 981 of 2010

and

MP.No. 1 of 2010

1. Vengadappa
2. Murali
3. Soapanna
4. Narayanasamy
5. Ramappa
6. Manjunath

.. Petitioners

Versus

The State rep. by the
Sub Inspector of Police
Bakalur Police Station
Bakalur, Ossur
(Crime No.36/2005)

.. Respondent

Petition filed under Sections 397 read with 401 of the Criminal Procedure Code, against the Judgment dated 15.3.2010 made in C.A.No.84 of 2007 on the file of the Principal District and Sessions Judge at Krishnagiri, confirming the conviction and sentence imposed in the judgment dated 12.6.2007 made in C.C.No.95 of 2005 on the file of the Court of the Judicial Magistrate No.1, Hosur.

For Petitioner : Mr.Mukund R.Pandian

For Respondent : Mr. V.Arul
Government Advocate (Crl.side)

सत्यमेव जयते

O R D E R

On the basis of the complaint given by P.W.1, a case in Crime No. 36 of 2005 was filed against seven persons, namely, the petitioners 1 to 6 herein (Accused 1 to 6) and Sakkamma (seventh accused) for the offences punishable under Sections 147, 148, 207, 324, 506(2) of IPC. The respondent police filed final report before the Judicial Magistrate No.1, Hosur and the same has been taken on file in C.C.No.95 of 2005. After trial, the trial court convicted the accused 1 to 6 / petitioners herein and sentenced them to undergo various terms of imprisonment and acquitted the seventh accused. Aggrieved by the same, the accused 1 to 6 filed Crl.A.No.84 of 2007

before the learned Principal District and Sessions Judge, Krishnagiri and the same was dismissed by confirming the judgment of the trial Court. Aggrieved by the order passed by the first appellate Court, the first accused has filed the present Criminal Revision Case.

2. The case of the prosecution is that on 20.2.2005 at about 18.30 hours, due to previous enmity with regard to land dispute, the accused formed unlawful assembly with criminal intimidation and that the first accused with iron rod caused grievous injury on the head of the defacto complainant / PW1 and that the second accused with iron rod caused hurt on the back of P.W.1 and that the third accused attacked P.W.2 with knife and thereby caused injuries on right hand wrist and ring finger and that the fourth accused caused simple injuries by beating with bricks and that the fifth accused caused simple injuries in his hand and that the sixth accused did not attack anybody but he caused simple injuries to P.W.7 by throwing stone. In this context, the defacto complainant had given a complaint based on which the accused were proceeded with for the offences as mentioned above.

3. The learned counsel appearing for the petitioners did not argue on merits but confined his argument only on the question of sentence imposed on the petitioners/accused lto 6 by the courts below. The learned counsel for the petitioners submitted that even as per the evidence of doctor, the injuries caused were not so serious. The learned counsel for the petitioner further submitted that the court below has acquitted the seventh accused whereas the petitioners have been awarded the sentence of imprisonment. The learned counsel also submitted that the defacto complainant and the petitioners are neighbours and only due to sudden provocation, the incident had occurred and that the petitioners have no previous case. It is submitted by the learned counsel that the petitioners had already undergone imprisonment for a period of 50 days. It is also submitted by the learned counsel that the petitioners are prepared to pay some amount as compensation to the defacto complainant. Therefore, the learned counsel for the petitioners prayed for showing leniency in reduction of sentence.

4. I have heard the learned Government Advocate on the submission made by the learned counsel for the petitioner and perused the materials on record.

5. The trial court convicted the petitioners for the offences punishable under Sections 147, 148, 207, 324, 506(2) of IPC and sentenced to various terms of imprisonment.

6. It appears that the problem arose between the accused and the defacto complainant only in respect of land dispute and due to sudden provocation, the incident had occurred. Now the petitioners say that they are now repenting for the mistake done by them and

that they are willing to pay some compensation for the said act committed by them and that they have already undergone imprisonment for more than 50 days. But at the same time, mere money cannot compensate the pain undergone by the defacto complainant.

7. However, taking into consideration the submission of the counsel for the petitioners, the fact that the problem arose only in respect of land dispute and that due to sudden provocation, the incident had occurred and that the petitioners now voluntarily undertake to pay some compensation to the victim and that they had undergone sentence for a period of 50 days so far, I am of the view that some leniency can be shown to the petitioners in reducing the sentence.

8. Accordingly, while confirming the conviction imposed by the Courts below, the sentence imposed on the petitioners is reduced to the period already undergone by them. Fine amount awarded by the Courts below is enhanced to Rs.5,000/- each and each of the petitioners shall pay the said amount of Rs.5,000/- towards fine. Each of the petitioners shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) to the credit of C.C.No.95 of 2005 on the file of the learned Judicial Magistrate No.1, Hosur, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the trial Court shall hand over the same to the Victim, as compensation, on proper identification. It is also made clear that if the petitioner fails to pay the compensation amount, within the time stipulated by this Court, he shall undergo the remaining period of sentence as ordered by the Courts below.

With the above observation and modification in sentence, the Criminal Revision Case is partly allowed. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CSIV)

dt:28/09/2015

True Copy

Sub-Assistant Registrar

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To

1. The Principal District and Sessions Judge, Krishnagiri
2. The Judicial Magistrate No.1, Hosur
3. The Sub Inspector of Police,
Bakalur Police Station, Bakalur, Ossur
(Crime NO.36/2005)

4. The Public Prosecutor, High Court, Chennai.

+1 cc to Mr.Arunachalam, Advocate sr.47004

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