

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

Criminal Appeal No.674 of 2006

Swaminathan

... Appellant/Complainant

vs.

1. V.Mathivanan
2. M.Balaji
3. Venu

Respondents /Accused

Criminal Appeal filed under Section 374 of Cr.P.C., to set aside the order of acquittal made in the order dated 17.3.2006 in C.C.No.2 of 2000 on the file of Chief Judicial Magistrate, Vellore and thereby punish the respondents.

For appellant : Mr.K.A.Ravindran

For Respondents : Mr.V.Karthik for M/s.T.S.Gopalan & Co.

JUDGMENT

This Criminal Appeal has been directed against the order of acquittal passed in Calendar Case No.2 of 2000 by the Chief Judicial Magistrate Court, Vellore.

2. The appellant herein, as complainant, has filed the complaint in question and the same has been taken on file in C.C.No.2 of 2000, wherein the present respondents have been shown as accused. In the complaint, it is averred that on 24.12.1993, the complainant has driven the Tractor cum Trailer bearing Registration No.TN 23-6829 and at that time the second accused has intercepted the vehicle and beaten him. The third accused has subsequently joined with the second accused and thereafter at the intervention of the first accused, the complainant has been brought to the police station and the accused have beaten him and due to that, he sustained blood injury on the back side of his head and subsequently a case has been foisted and thereafter on 27.12.1993, he has been released on bail and since the accused have committed the offence mentioned in the complaint, they are liable to be punished.

3. The trial court, after considering the available evidence on record, has dismissed the complaint and thereby acquitted all the accused. Against the order of acquittal, present Criminal Appeal has been preferred at the instance of the complainant, as appellant.

4. The learned counsel appearing for the appellant/complainant has contended with great vehemence that the occurrence has taken place on 24.12.1993 and during the course of occurrence, all the accused have joined together and attacked the complainant indiscriminately and thereby caused blood injury and subsequently a case has been foisted against him and thereafter remanded to custody and on 27.12.1993, he has been granted bail and thereafter, the present complaint has been filed and even though on the side of the complainant, enormous evidence are available, the trial court has erroneously dismissed the complaint and therefore, the order of acquittal passed by the trial court is liable to be set aside.

5. Per contra, the learned counsel appearing for the respondents has contended that on the side of the complainant, P.W.5, the concerned Doctor has been examined and his specific evidence is that on 24.12.1993, he examined the complainant, whereas in the complaint, it has been clearly stated that on 24.12.1993 itself, the complainant has been remanded to custody and subsequently granted bail on 27.12.1993 and therefore, the evidence given by P.W.5 is absolutely false and further in the Wound Certificate, it has not been specifically stated that the complainant has sustained blood injury and the trial Court, after considering the available evidence on record, has rightly acquitted all the accused and therefore, the order of acquittal passed by the trial Court is not liable to be set aside.

6. Basing upon the divergent contentions raised on either side, the Court has to analyze as to whether the appellant/complainant has established the guilt of all the accused punishable under the sections mentioned in the complaint.

7. In the complaint, it has been specifically stated that the entire occurrence has taken place on 24.12.1993 and during the course of occurrence, all the accused have joined together and attacked the complainant indiscriminately and thereby caused blood injury on the back side of his head. At this juncture, it would be more useful to look into the Wound Certificate, wherein no mention has been made with regard to blood injury. Further, in the Wound Certificate, it has been clearly mentioned that the complainant has reported to the concerned Doctor that he has been attacked by five unknown persons.

8. Further, on the side of the appellant/complaint, P.W.5, the

concerned Doctor has been examined and his specific evidence is that he examined the complainant on 24.12.1993, but the averments made in the complaint are otherwise, wherein it has been clearly stated that on 24.12.1993, he has been remanded to custody and he has been granted bail only on 27.12.1993. Therefore, viewing from any angle, the averments made in the complaint are totally incongruous with the available evidence on record. To put it in short, on the side of the appellant/complainant, the offences alleged to have been committed by all the accused have not been proved.

9. The trial court, after analyzing all the evidence available on record, has rightly acquitted all the accused. In view of the discussions made earlier, this Court has not found any valid ground to make interference with the well merited order of acquittal passed by the trial Court and altogether, the present Criminal Appeal deserves to be dismissed.

In fine, this Criminal Appeal is dismissed.

-Sd/-

Assistant Registrar(cs-II)

//True copy//

Sub Assistant Registrar

ajr

To :

1.The Chief Judicial Magistrate,
Vellore

2. The Public Prosecutor.
High Court, Chennai

+1 cc to Mr.K.A.Ravindran,Advocate(sr.54456)

+1 cc to Mr.T.S.Gopalan,Advocate(sr.53876)

Cr1.A.No.674 of 2006

skv(co)
cp 12/10/2015