

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2016

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

CRL.R.C.No.1042 of 2011

R.Venkatramanujam

... Petitioner/Accused No-2

Vs.

The State represented by:
The Sub-Inspector of Police,
E-2, Royapettah Police Station,
Chennai.
(Crime No.1830 of 2008).

... Respondent/Complainant

Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure to call for the records in C.C.No.10012/2009, on the file of the learned XVIII Metropolitan Magistrate and set-aside judgment dated 03.05.2011 passed by the learned Magistrate in C.C.NO.10012/2009.

For Petitioner : Mr. P.Suresh

For Respondent : Mrs. M.F.Shabana
[Govt. Adv.(Crl.S)]

ORDER

A2 in C.C.No.10012 of 2009 on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai, is the appellant herein. Totally there are two accused. They stood charged for the offences under Sections 342, 353 and 506(1) r/w.34 IPC. The trial Court, by judgment dated 03.05.2011, acquitted A1 from all the charges and convicted A2/petitioner for the offence under Section 341 and imposed a fine of Rs.100/-, in default to undergo simple imprisonment for one week and convicted him under Section 353 IPC and imposed a fine of Rs.1000/-, in default to undergo simple imprisonment for one month. Challenging the above said conviction and sentence, the present revision has been filed.

2. The case of the prosecution in brief is as follows:

P.W.1 in this case was working as an Enforcement Officer in the Employees Provident Fund Office at Chennai. On 18.12.2008, at about 8.00 p.m., P.W.1 along with P.Ws.2, and 4

went to the office of the petitioner/accused for inspection and asked the accused to produce some records. A2 refused to hand over the files and when P.W.1 was trying to take the Attendance Register of the petitioner's company, he attacked P.W.1 with hands and also closed the office door and wrongfully confined all the witnesses, P.Ws.1 to 5. Hence, P.W.1 has given a complaint before the respondent police. P.W.8, Sub-Inspector of Police, on receipt of the complaint, registered a case in Crime No.1830 of 2008 for the offences under Sections 342, 353 & 506 (i) IPC. Then, he proceeded to the scene of occurrence and prepared Observation Mahazar and Rough Sketch in the presence of witnesses and recorded the statement of witnesses. On completion of investigation, he laid charge sheet.

3. Based on the above material, the trial Court framed charges and the accused denied the same. In order to prove the case, on the side of the prosecution, as many as 8 witnesses were examined and 5 documents were marked.

4. Out of the witnesses examined, P.W.1 is the Enforcement Officer in the Employees Provident Fund Office at Royapettah. On the date of occurrence, he along with P.Ws.2,3, 4 went into the office of the petitioner for investigation after obtaining necessary authorization from the Authorized Officer. When, he requested to produce necessary documents for inspection, the manager refused to handover the same. The Manager informed the petitioner, who is a Managing Director of the company and in turn, the petitioner informed P.W.1 that already all the documents have been given to another officer and he also threatened him. Immediately, P.Ws.2 to 4 informed the same to the Assistant Commissioner. Then, P.Ws.2 to 4 went to the petitioner's office for inspection. Thereafter, when P.W.1 inspected the attendance register, A1 tried to attacked him. Then, all the witnesses went inside the office and inspected the records. At that time, the accused locked the door of the office and immediately, they informed the same to the police and the police came and released him. Thereafter, he gave a complaint.

5. P.W.2 is also another Enforcement Officer in the Employees Provident Fund Office. According to him, they were asked by the Assistant Commissioner to go to the petitioner's office for inspection and to assist P.W.1 and he also went there. When they inspecting the company accounts, the main gate was locked. Thereafter, the police came and released them. P.W.3 and P.W.4 are also Enforcement Officers in the Employees Provident Fund and they have also reiterated the evidence of the other witnesses.

6. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., they denied the same as false. On their side, the petitioner/A2 was examined himself as

DW1 and also marked 6 documents to show that there is no proper authorization before inspection of the petitioner's premises.

7. Considering the above materials, the trial court convicted the petitioner/A2 as mentioned in paragraph one of the judgment. Challenging the same, the present revision has been filed.

8. The learned counsel appearing for the petitioner would submit that none of the prosecution witness has specifically implicated the petitioner and all the witnesses, i.e., even P.W.1, in his cross examination has stated that there is no specific written authorization to inspect the premises and he did not know, who has locked the main door. Apart from that no authorization by the competent authority was also produced to show that P.Ws.1 to 4 were authorized by the competent authority to inspect the premises. In the absence of any specific evidence that the petitioner/A2 has wrongfully confined the prosecution witnesses, the trial Court wrongfully convicted the petitioner after acquitting A1.

9. Per contra, learned Government Advocate (Crl. Side) would contend that P.Ws.1 to 4 are all eyewitnesses/victims in this case. They are all Government officials discharging their public duty and for discharging their public function they went to the petitioner's office for inspection, where they were wrongfully confined and prevented from discharging their duty and the prosecution has clearly established the guilt of the accused and the trial Court considering the evidences, convicted the petitioner/A2 and sought for dismissal of the revision.

10. I have heard Mr. P.Suresh, learned counsel appearing for the petitioner and Mrs. M.F.Shabana, Government Advocate (Crl. Side) for the respondent.

11. As rightly contended by the learned counsel for petitioner, P.Ws.1 to 4 did not specifically stated that only this petitioner has wrongfully confined them and locked the door and prevented them from discharging their duty. Even P.W.1 has specifically stated in his cross examination that he did not know, who has locked the door and the evidence of P.Ws.2 to 4 also did not specifically implicate the petitioner. Their evidence is that somebody has locked the door and confined them in the office. Considering the above evidence, the trial court acquitted A1 and convicted the petitioner/A2.

12. From the careful perusal of the evidence, there is absolutely no evidence against the petitioner/A2 to show that he has wrongfully confined P.Ws.1 to 4 and prevented them from discharging their duty. In the above circumstances, I am of the considered view that the prosecution has failed to prove the

case beyond all reasonable doubt. Hence, the petitioner/A2 is entitled for acquittal.

13. In the result, the Criminal Revision Case is allowed and the judgment dated 03.05.2011 made in C.C.No.10012 of 2009 on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai, is set aside and the petitioner is acquitted from all the charges. Fine amount if any paid by the petitioner shall be refunded.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The XVIII Metropolitan Magistrate,
Saidapet, Chennai,
2. The Public Prosecutor,
High Court, Madras.

Copy to:

The Section Officer,
Criminal Section,
Madras-104.

+1cc to Mr.p.Suresh, Advocate in Sr.No.73170

Crl.R.C.No.1042 of 2011

RJ(CO)
NR(08/06/2017)

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