

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.1004 of 2010

1.Babu
2.Kanagaraj
3.Masthan

.... Petitioners/A2 to A4

Vs

State by
The Sub Inspector of Police
F-5, Chetpet Police Station
Chennai
Crime No.1352/2002

... Respondent/Complainant

Prayer:- This Criminal revision is filed under Section 397 & 401 of Cr.P.C., to set aside the order dated 05.08.2010 made in C.A.No.56 of 2009 on the file of the Additional District and Sessions Judge, Fast Track No.1, Chennai confirming the order dated 30.03.2009 passed in C.C.No.912/2003 on the file of the XIV Metropolitan Magistrate Court, Egmore, Chennai.

For petitioners : Ms.N.Valliamaa
Legal Aid Counsel

For Respondent : Mrs.M.F.Shabana,
Government Advocate (Crl.

Side)

O R D E R

This Criminal Revision has been filed against the judgment and conviction passed by the Additional District and Sessions Judge, Fast Track No.1, Chennai in C.A.No.56/2009 on 05.08.2010 confirming the judgment passed by the Learned XIV Metropolitan Magistrate Court, Egmore, Chennai in C.C.No.912/2003 on 30.03.2009.

2.The petitioners are A2 to A4 in C.C.No.912 of 2003. Totally there are four accused. A1 was charged with for the offence under Section 341, 506(ii) r/w 109 I.P.C. A2 to A4 were charged for the offences under Section 341, 324 and 506(ii) IPC. The Trial Court has convicted all the accused for offences under

Section 341 IPC and accused 2 to 4 for the offences under Section 324 IPC. They were sentenced to pay a fine of Rs.250 each and in default to undergo simple imprisonment of one month for the offences under Section 341 IPC and sentenced to undergo simple imprisonment of three months for the offences under Section 324 IPC. Challenging the said conviction and sentence, the petitioners have filed an appeal in C.A.No.56 of 2009 on the file of the Additional District and Sessions Judge, Fast Track Court, Chennai. The Appellate Court by judgment dated 05.08.2010, dismissed the appeal confirming the conviction and sentence. Challenging the judgment of appellate Court, the petitioner has filed this present Criminal Revision.

3. The brief facts of the case are as follows:

On 12.11.2002, at about 6 p.m., PW1-injured witness, in this case, went to buy kerosene, at that time A1 told the other accused that PW1 is a police informer and asked the accused A2 to A4 to attack him. A2 attacked the defacto complainant with knife on the left ear and A3 attacked him on the left shoulder and also between the index finger and ring finger and thereby caused simple injuries. Further, A1 to A4 threatened the defacto complainant that they will do away with his family members. Immediately, PW1 informed the respondent-Police at about 6.15 p.m. mentioning the names of all the four accused and then he was admitted to the Government General Hospital. PW7-Doctor treated him and found lacerated injury in the head and also injury in the right hand. Then PW8-investigation officer, on receipt of the proceedings, went to the occurrence place and prepared observation mahazar and rough sketch and arrested the accused persons and obtained statement from the witnesses and also filed a charge sheet. The accused were presented before the Trial Court and they have denied the charges made against them.

4. In order to prove the case, the prosecution examined 8 witnesses and 4 documents were marked on the side of prosecution. Out of the eight witnesses, PW1 is the injured witness, PW2 is the wife of PW1. PW3 is a hearsay witness. PW4 is the brother of PW1. PW5 and PW6 were treated hostile. PW7 is a Doctor. PW8 is the investigating officer.

5. According to PW1, when he was proceeding to a provision store to purchase provisions, all the accused humiliated and restrained him on the instigation of A1. A2 to A4 attacked him with a knife. A2 to A4 are the brothers of A1. PW2 to PW4 saw the accused attacking him with knife and immediately took him to the hospital. PW1 immediately filed a complaint against all the four accused. PW8-Investigating Officer after receiving information, visited the place of occurrence and examined the injured witness, Doctor and other

witnesses and filed a charge sheet.

6. When above incriminating materials put to the accused, they denied the charges. After considering the above materials, the Trial Court convicted all the accused as stated above. Challenging the same, they filed an appeal and the Appellate Court also dismissed the appeal, challenging the same, the present Revision is filed.

7. The learned counsel appearing for the petitioner vehemently contended that PWs 2, 3 and 4 are all interested witnesses. The occurrence had taken place near the shop and the owner of the shop was not examined and no independent witness was examined by the prosecution. It was also admitted that there was previous enmity between PW1 and the accused. In the absence of any independent witness, the Courts below ought not to have convicted the accused based on evidence of PWs 2, 3 and 4.

8. On the other hand, the Learned Government Advocate (Criminal Side) submitted that PW1 is the injured witness and a complaint was also lodged immediately, PW1 was taken to the hospital and the police has also reached immediately, within fifteen minutes and all the accused were arrested. Apart from that, the other independent witnesses have not come forward to give evidence, even though, PW2, PW3 and PW4 are closely related to PW1, their presence in the scene of occurrence is natural and consistent and hence, she sought for dismissal of the Revision.

9. I have anxiously considered the rival submissions and perused the impugned order and the materials on record.

10. It could be seen that immediately after the occurrence, a complaint was given to the respondent-Police in which names of the four accused were mentioned and PW1 was taken to the nearby hospital, where PW7-Doctor examined him and found injuries on the head as well as in the right hand and there is no delay in filing the FIR. PW1-injured witness categorically stated that, when he went to purchase kerosene, all the accused attacked him saying that he is a police informer. As PW1 has not returned home, PW2 and PW4 went in search of him and saw all the accused restraining him and attacking PW1. Hence, the evidence of PW2 and PW4 is also clear and consistent. Hence, there is no reason to disbelieve PW1, PW2

and PW4. In the above circumstances, both the Courts below have rightly appreciated the evidence available on record and convicted the petitioners. I do not find any irregularity or perverse view in the order passed by both the Courts. Hence, no interference is required in the judgment passed by the Courts

below.

10. In the result, the Criminal Revision is dismissed. The learned Counsel appearing for the State Legal Aid Services, is entitled for Legal Aid fees.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Additional District and Sessions Judge,
Fast Track Court No.1
Chennai.

-do- thro The Prl. Sessions Judge, Chennai

2.The XIV Metropolitan Magistrate Court,
Egmore, Chennai.

3 -do- through the Chief Metropolitan Magistrate,
Egmore, Chennai 8

4 The Member Secretary State Legal Services Authority, High
Court, Madras

+lcc to Mr.Vathiamma, Advocate, S.R.No.73897

lrs (CO)
md(02/02/2017)

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Cr1.R.C.No.1004 of 2010

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