

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.833 of 2011

Thennarasu @ Panai Thennarasu

... Petitioner

Vs.

State rep. by
Inspector of Police
R.S.Puram Police Station (L&O)
Coimbatore,
(Crime No.1024/2009)

...Respondent

Prayer:- Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, against the judgment of learned Principal Subordinate Judge, Coimbatore passed in S.C.No.227 of 2009 on 04.10.2010 confirming the judgment of learned Additional District and Sessions Judge, Fast Track Court No.II, Coimbatore passed in Crl.A.No.225 of 2010 on 29.03.2011.

For petitioner : Mr.K.Thilageswaran

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

O R D E R

This revision arises against the judgment of learned Additional District and Sessions Judge, Fast Track Court No.II, Coimbatore, passed in Crl.A.No.225 of 2009 on 29.03.2011.

2.The petitioner was charged with for the offences under Section 427, 506(ii) under Section 75(1) of TNCP Act and 3(1) of TNP(PDL) Act 1992. The Trial Court convicted the petitioner under Section 427 IPC and sentenced him to undergo Simple Imprisonment for six months and convicted him under Section 506(1) of IPC and sentenced him to undergo Rigorous Imprisonment for one year, and acquitted the accused under Section 75(1) of TNCP Act and 3(1) of TNP(PDL) Act 1992. Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.225 of 2010 before the Additional District and Sessions Judge, Fast Track Court No.II, Coimbatore and the Appellate Court has also confirmed the conviction and sentence and dismissed the appeal.

Challenging the above conviction and sentence, the petitioner is before this Court with this Criminal Revision Petition.

3.The prosecution case in brief is as follows:

PW1/Plaintiff in this case is working as a Cashier in a bar attached to TASMAC Shop at Thadagam Road, Coimbatore. PW2 and PW3 are working as suppliers in the same shop. On 01.10.2009, at 2 p.m., the petitioner herein went into the bar and consumed liquor and demanded the PW1 to PW3 to serve mutton, but PW1 to PW3 informing him that it was not available in the bar. Then the petitioner quarreled with them using abusive words, threatened them and broken the plastic chairs and tables worth about Rs.2,000/-. Thereafter, he came out of the bar and damage the windscreen of a car belonged to PW4, which was parked outside the bar. Immediately, PW1 lodged a complaint with the respondent-Police and PW8-Sub-Inspector of Police, Coimbatore registered an FIR against the petitioner. PW9 is the Inspector of Police, received the FIR and investigated the matter, PW9 inspected the place of occurrence and collected damaged materials and recorded the statement eye witnesses and arrested the accused. After detailed investigation, he filed a charge sheet. However, the appellant herein denied all the charges levelled against him.

4. Before the trial Court, the prosecution examined nine witnesses, marked seven exhibits and three material objects.

5. PW1, was working as cashier in the bar, according to him, on the date of occurrence at 2 p.m., the petitioner, came to the bar consumed liquor and demanded mutton. When the employees informed him that it is not available, he threatened them with dire consequences and damaged the tables and chairs in the bar and went out, and damaged the windscreen of a car, which was parked outside the bar, and PW1 immediately complained to the police. PW2 and PW3 are the suppliers working in the bar and they had also reiterated the same. PW4 is the owner of the car in which the accused damaged the windscreen. PW5 remains hostile. PW6, changed the windscreen of the car, which was damaged by the petitioner and confirmed the damages in the car. PW7 is the driver of the damaged car. PW8 is the Sub-Inspector of Police and PW9 is the Inspector of Police, Coimbatore who conducted the investigation and filed the final report. When the above indiscriminating materials were put to the accused, he denied the same as false. He did not examine any witnesses. Considering the above materials, the Trial Court convicted the accused and sentenced him to undergo Simple Imprisonment for six months. Challenging the same, the petitioner has filed an appeal before the Additional District and Sessions Judge, Fast Track Court No.II, Coimbatore, the lower Appellate Court confirmed the conviction and sentence and dismissed the appeal. Challenging the order of the Appellate Court, the petitioner is before this Court with the Criminal Revision Petition.

6.Heard learned counsel for petitioner and learned Government Advocate [Crl.side].

7.There are three eye witnesses to the occurrence. PW1 is the cashier in the Bar and PW2 and PW3 are the suppliers in the Bar. It is the consistent evidence of all the three eye witnesses that on the date of occurrence, the accused went to the bar, consumed liquor and demanded mutton. When they informed him that it is not available, he abused them, threatened them, and damaged the plastic chairs and tables, thereafter went out side and damaged the windscreen of the car parked outside the bar. Since all the eye witnesses working in the bar where the occurrence had took place, there is no reason to disbelieve the evidence and no motive was also attributed to them. Apart from that he has also damaged the car. It is the evidence of PW6 that the damaged car was repaired and the windscreen was changed by him. In order to show that the petitioner was in an intoxicated mood, he was taken to hospital and obtained a certificate which was marked as Ex.P7. In the above circumstances, the both Courts below considering all the materials convicted the accused and I find no illegality or perversity in the same and there is no reason to interfere with the judgments of the Courts below.

8. As regards the quantum of sentence is concerned, the Occurrence took place in the year 2009, the petitioner has no bad antecedents, he is a poor man, he has a big family to maintain and he can be given an opportunity to reform himself. Taking into consideration all the mitigating as well as aggravating circumstances, this Court feels that the ends of justice would be met by releasing the petitioner under Section 4(1) of the Probation of Offenders Act and execute a bond for a sum of Rs.1000/-(Rupees one thousand only) with two sureties each, for a like sum to the satisfaction of the lower Court and to appear and receive the sentence when called upon during the period of one year and in the meantime to keep peace and good behavior.

9. With the above observation, the criminal revision is dismissed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

rm/rrg

To

1.The Principal Subordinate judge,
Coimbatore.

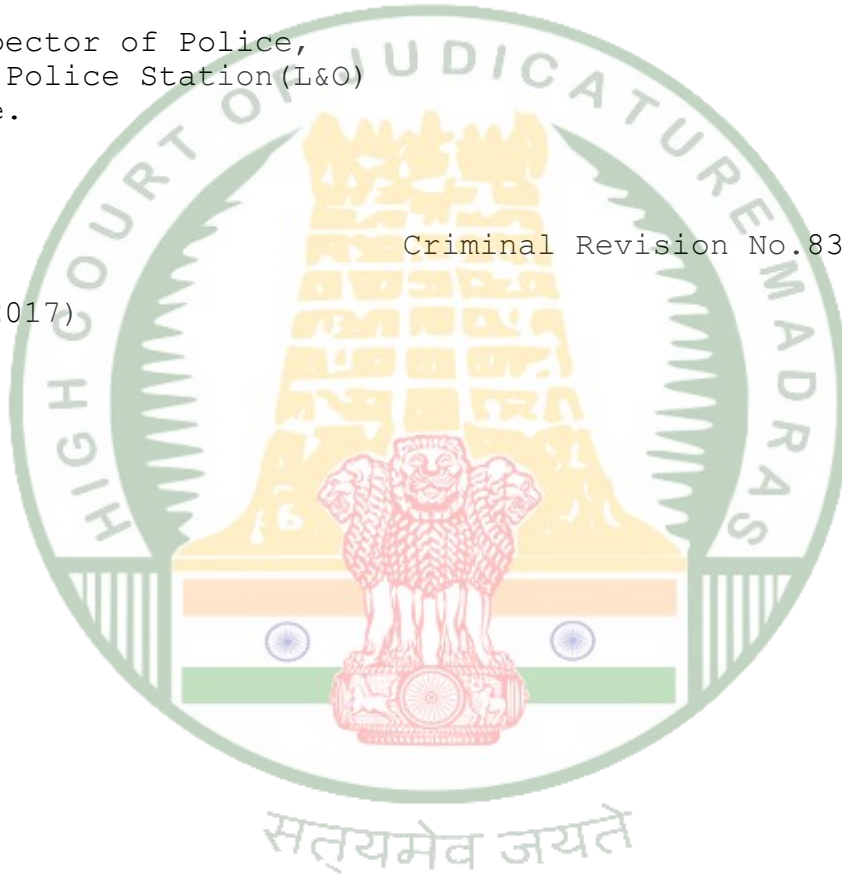
2.The Additional District and Sessions Judge,
Fast Track Court No.II,
Coimbatore.

3. The Public Prosecutor,
High Court, Madras.

4.The Inspector of Police,
R.S.Puram Police Station(L&O)
Coimbatore.

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