

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2016

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.R.C.No.598 of 2010

T.N.Thangamani  
S/o.Narayanasami Mudaliar .... Petitioner/ Defacto Complainant

vs.

1.State represented by  
Sub-Inspector of Police,  
Tiyagadurugam Police Station.  
Crime No.7 of 2006 ....1st Respondent/ Complainant

2.Balakrishnan  
S/o.Thiruvengkata Mudaliar

3.Subramaniam  
S/o.Balakrishnan

4.Arthanari  
S/o.Velu Mudaliar

5.Thangam Ammal  
W/o.Balakrishnan .... Respondents 2 to 5/ Accused 1 to 4

Criminal Revision filed under section 397 & 401 of the Code of Criminal Procedure, against the judgment of learned Judicial Magistrate, Kallakurichi, passed in C.C.No.125 of 2006 on 23.12.2009.

For Petitioner : Mr.K.Sathish Kumar

For Respondents: Mr.M.F.Shabana  
Government Advocate [Crl.side] [R1]  
No appearance [R2 to R5]

O R D E R

This revision arises against the judgment of learned Judicial Magistrate, Kallakurichi, passed in C.C.No.125 of 2006 on 23.12.2009.

2. The case of the prosecution is that on 19.01.2006 at about 01.30 p.m., due to dispute over property, the accused/respondents 2 to 5, abused the victims in poor language, assaulted them using rods and caused injuries. Case was registered in Crime No.7 of 2006 on the file of first respondent. Upon completion of investigation and filing of charge sheet informing commission of offences u/s.294(b), 323, 324, 326 and 506(ii) IPC, the case was tried in C.C.No.125 of 2006 on the file of learned Judicial Magistrate, Kallakurichi.

3. Before trial Court, the prosecution examined nine witnesses and marked eight exhibits and one material object. None were examined on behalf of the defence, but two exhibits were marked. On appreciation of materials before it, trial Court, under judgment dated 23.12.2009, acquitted the accused. There against, the present revision has been filed.

4. Heard learned counsel for petitioner, learned Government Advocate [Crl.side] for first respondent and learned counsel for respondents 2 to 5.

5. In acquitting accused/respondents 2 to 5, the trial Court has reasoned as follows:

- (i) Though the prosecution alleges that the accused 1 to 3 have assaulted PWs.1 to 3 using an iron rod and caused injuries, PWs.1 to 3 have deposed to the contra. PWs.1 to 3 deposed of the accused 1 to 3 having assaulted them using hands and logs and caused injuries. Thus, the prosecution has failed to establish the charge u/s.323 (2 counts) IPC against first accused, 324(2 counts) IPC against second accused and 324 IPC against third accused.
- (ii) The allegation against fourth accused was that she assaulted PW-3 on his back using her hands, but none of the witnesses viz., PWs.1 to 5 and 8, deposed to such effect. Their evidence was only to the effect that the fourth accused had assaulted PW-3 using her hands. Thus, the prosecution has failed to prove the charge u/s.323 IPC against fourth accused.
- (iii) Though PWs.1 and 2 deposed that the accused abused them in filthy languages, they have not deposed what were the words used by the accused. PWs.3 to 5 and PW-8 have not spoken to use of abusive language by accused. Hence, charge u/s.294(b) IPC has not been proved.
- (iv) Accused 2 and 3 were said to have issued life threats to PWs.1, 2, 3 and 8 and charged for offence u/s.506(ii) IPC. There were discrepancies in the evidence of PW-1 and PWs.2 to 5 and 8. It was only PW-1 who have spoken about issuance of life threats by the accused. None of the other witnesses have deposed so. Hence, the offence u/s.506(ii) IPC has not been proved beyond reasonable doubt.

(v) Though PW-1 deposed of the first accused having assaulted PW-2 on his ring finger using an iron rod and caused injuries and PW-2 deposed of the first accused having assaulted him using a iron pipe, neither the iron rod nor the iron pipe has been recovered. Accused have also sustained injuries in the occurrence and Ex.D1, wound certificate, issued by PW-6, Doctor, has been marked in support thereof. Thus, the prosecution has failed to establish the offence u/s.326 IPC beyond reasonable doubt.

This Court finds no error in the reasoning of the trial Court towards arriving at a finding of acquittal.

This Criminal Revision stands dismissed.

Sd/-  
Asst.Registrar (AS)

/true copy/

Sub Asst. Registrar

gm

To

- 1.The Judicial Magistrate,  
Kallakurichi.
2. The Chief Judicial Magistrate  
Villupuram
- 3.The Sub-Inspector of Police,  
Tiyagadurugam Police Station.
- 4.The Additional Public Prosecutor,  
High Court, Madras.

1 cc to Mrs.P. Mahalakshmi, Advocate. Sr. 3195

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SCD (CO)  
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