

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.938 of 2016

N.Senthil Kumar

.. Petitioner

vs.

1.State rep by Inspector of Police,
Rep by APP,
District Crime Branch,
Tiruppur in Crime No.383 of 2008.

2.A.Selvaraj
3.R.Moorthy @ Texla Moorthym
4.Dinesh Paharia
5.P.Sampath @ Sampath Kumar.

Criminal Revision filed under Section 397 and 401 Cr.P.C. against the Judgment dated 19.01.2016 in C.A.No.71 of 2015 on the file of the II Additional District and Sessions Judge, Tiruppur, confirming the Judgment made in C.C.No.430 of 2014, dated 28.04.2015, on the file of the Judicial Magistrate No.I, Tiruppur.

For Petitioner : M/s.K.S.Karthik Raja

For Respondent : Mr.K.Madhan
Government Advocate (Crl.side) for R1
Mr.A.Madhumathi for R2 to R5

O R D E R

Learned counsel for petitioner seeks further time. The matter has already been adjourned on several occasions and today, it is posted under the caption 'for orders' as per the direction of this Court. In the circumstances, this Court proceeds to dispose of the revision.

2. Petitioner challenges the judgment of learned II Additional District and Sessions Judge, Tiruppur, passed in C.A.No.71 of 2015 dated 19.01.2016 confirming the judgment of learned Judicial Magistrate No.I, Tiruppur, passed in C.C.No.430 of 2014 dated 28.04.2015.

3. Respondents 2 to 4 faced trial in C.C.No.430 of 2014 on

the file of learned Judicial Magistrate No.I, Tirupur, for offences u/s.365, 342, 323, 323 r/w 109, 506(ii) and 385, 385 r/w 109 and 201 IPC. The case of the prosecution is that on 07.01.2008 at about 09.00 a.m., the 1st and 2nd accused kidnapped the petitioner P.W.1-Senthil Kumar from his house at Door No.6 KRE Layout in a car for the purpose of wrongfully confining him and to forcibly get documents from him and his wife PW.2-Jayashree. Accused Nos.1 and 2 wrongfully confined PW.1 in a house in the first floor situated in Periya Palayam Stone Quarry at Uthukuli Road. The further case of the prosecution is that the 3rd and 4th accused have abetted the 1st and 2nd accused. On the same day at about 09.30 a.m., the 1st accused slapped. The 2nd accused had further intimidated PW.1 by proclaiming that PW.1 should do whatever the 1st accused tells him failing which PW.1 will be done to death in the stone quarry and will be thrown on the railway track. On the same day about 04.00 p.m., the 1st accused had warned PW.2 Jayashree, the wife of the PW.1 by telling her that her child was in his car and asked her to sign documents available with him. Through such wrongful actions, properties were transferred in favour of A1. A2 was a witness to one document so obtained while A4 was a witness to another such document. A1 to 4 had also trespassed into PW1's house and taken away two cars belonging to PW.2.

4. Before the trial Court, the prosecution examined 12 witnesses and marked 11 exhibits. None were examined on behalf of the defence nor were any exhibits marked. On appreciation of materials before it, trial Court, under judgment dated 28.04.2015, acquitted the accused. Aggrieved, petitioner/de facto complainant preferred an appeal in C.A.No.71 of 2015 on the file of learned II Additional District and Sessions Judge, Tiruppur, which came to be dismissed under judgment dated 19.01.2016. Hence, this revision.

5. Heard learned counsel for petitioner and learned Government Advocate [Crl.side] for first respondent.

6. In dismissing the appeal, the appellate court has reasoned as follows.

(1) Though the occurrence had taken place on 07.01.2008, P.W.2 has informed P.W.10, her brother, about the occurrence only on 15.01.2008. There was no explanation why P.W.2 did not inform the occurrence to P.W.10 immediately. There were contradictions in the evidences of prosecution.

(ii) The delay in preferring the first information has not been explained.

(iii) While P.W.2 in the complaint has informed that accused have threatened her standing in front of her daughter's school, it was the evidence of P.Ws.6 and 7 that the PW.2's

daughter did not attend school on such date.

For the above said reasons and for other reasons, the appellate court has held that the trial court has rightly held that the prosecution has failed to establish its case beyond reasonable doubt and accordingly afforded the benefit of doubt to the accused.

7. Finding no error, the Criminal Revision shall stand dismissed.

sd/
Assistant Registrar(CS III)

/true copy/

Sub Assistant Registrar

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To

- 1.The II Additional District and Sessions Judge,
Tiruppur.
- 2.The Judicial Magistrate No.I,
Tiruppur.
- 3.The Inspector of Police,
District Crime Bench,
Tiruppur.
- 4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.Madhumathi, Advocate SR.No.69857.

Cr1.R.C.No.938 of 2016

MP (CO)
GN(17/02/2017)

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