

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2017

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.R.C.No.1 of 2011

Gurusamy
S/o.Pongiyali Goundar

... Petitioner

VS

State represented by
The Sub-Inspector of Police,
Jedarpalayam Police Station,
Namakkal District.
Crime No.358 of 2004

... Respondent

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, against the judgment of learned Additional District and Sessions Judge, Fast Track Court, Namakkal, passed in C.A.No.1 of 2009 on 20.07.2010 modifying the judgment of learned District Munsif cum Judicial Magistrate, Paramathi, passed in C.C.No.224 of 2004 on 03.12.2008.

For Petitioner : Mr.B.Vasudevan

For Respondent : Mr.V.Arul
Additional Public Prosecutor

ORDER

This revision is preferred against judgment of learned Additional District and Sessions Judge, Fast Track Court, Namakkal, passed in C.A.No.1 of 2009 on 20.07.2010 modifying the judgment of learned District Munsif cum Judicial Magistrate, Paramathi, passed in C.C.No.224 of 2004 on 03.12.2008.

2. The prosecution case is that on 10.10.2004 at about 06.30 p.m., accused, owing to land dispute, assaulted PW-1 with a crow bar on his wrist and hip and caused grievous injuries as also issued life threats. A case in Crime No.358 of 2004 on the file of respondent was registered for offences u/s.326 and 506(ii) IPC. Upon completion of investigation and filing of charge sheet, the case was tried in C.C.No.224 of 2004 on the file of learned District Munsif cum Judicial Magistrate, Paramathi.

3. Before trial Court, prosecution examined 7 witnesses and marked 8 exhibits and 1 material object. None were examined on behalf of the defence nor were any exhibits marked.

4. On appreciation of materials before it, trial Court, under judgment dated 03.12.2008, convicted first accused for offence u/s.325 IPC and second accused for offence u/s.323 IPC and sentenced first accused to 12 months R.I.

and fine of Rs.2,000/- i/d 3 months R.I. and second accused to pay fine of Rs.1,000/- i/d 3 months R.I. There against, accused preferred an appeal in C.A.No.1 of 2009 on the file of learned Additional District and Sessions Judge, Fast Track Court, Namakkal. Appellate Court, under judgment dated 20.07.2010, while acquitting second accused, confirmed the finding of conviction as against first accused and modified the sentence to one of 6 months R.I. Fine imposed by trial Court was confirmed. Hence, this revision.

5. Heard learned counsel for petitioner and learned Additional Public Prosecutor as also perused the materials on record.

6. On perusal of the papers, this Court finds no reason to interfere with the finding of conviction entered upon by Courts below. However, taking into consideration the contention of learned counsel for petitioner that even according to Ex.P1, complaint, the incident occurred owing to a sudden quarrel as a result of PW-1 questioning the grazing of petitioner's cattle in her land, this Court is of the view that interests of justice would be served by treating the period of incarceration undergone by petitioner as the substantive sentence of imprisonment while at the same time enhancing the fine payable by petitioner to a sum of Rs.30,000/- i/d 6 months R.I. Fine amount shall be paid by petitioner to the credit of C.C.No.224 of 2004 on the file of learned District

Munsif cum Judicial Magistrate, Paramathi. Fine amount, now imposed, shall be paid by petitioner within a period of two months from today. On payment thereof, trial Court shall cause notice to PW-1 and effect payment of a sum of Rs.25,000/- to her in compensation in keeping with Section 357 Cr.P.C.

This Criminal Revision is disposed of with the above modification.

24.08.2017

Note to office:
Issue order copy by 31.08.2017

Index:yes/no
Internet:yes/no
gm

To

1.The Additional District and Sessions Judge,
Fast Track Court,
Namakkal.

2.The District Munsif cum Judicial Magistrate,
Paramathi.

3.The Sub-Inspector of Police,
Jedarpalayam Police Station,
Namakkal District.

4.The Public Prosecutor,
High Court, Madras.

C.T.SELVAM, J



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