

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN**

Crl.R.C.No.629 of 2011

Ankaiah

.. Petitioner

Vs

1. State By  
Sub-Inspector of Police,  
Ponneri Police Station,  
Tiruvallur district.  
(Crime No.39 of 2003)

2. Kumar

.. Respondents

**Prayer:-** Criminal Revision filed under Section 397 and 401 Cr.P.C.,  
to set aside the judgment dated 15.02.2011 made in C.C.No.133 of  
2003 on the file of the Judicial Magistrate No.1, Ponneri.

For Petitioner : Mr.I.Munirathnam Naidu

For Respondents : Mr.M.F.Shabana,  
Gov. Adv.(Crl. Side), for R1

: M/s.T.R.Ravi & S.Muthukumar,  
for R2

**ORDER**

Challenging the order of acquittal passed by the Judicial Magistrate-I, Ponneri, in C.C.No.133 of 2003, dated 15.02.2011, the defacto complainant has filed the present revision.

2. The case of the prosecution, in brief, is as follows:-

P.W.1/defacto complainant is an agriculturist having 6 acres of land, and after harvest, he has stored the hay worth about Rs.12,000/- in his land. On 01.02.2003, at about 10.00 p.m., he was informed that the accused has set fire to the hay stored, immediately, he rushed there and had seen the accused running from the nearby temple and also found a pair of chappals near the place of occurrence. On the next day morning, he had given a complaint before the respondent police.

3. On receipt of the complaint, P.W.7, Inspector of Police, registered a case in crime No.39/2003, for the offence under Section 435 IPC. Then, he proceeded to the scene of occurrence and prepared an observation mahazar, Ex.P.3, and drew a rough sketch, Ex.P.9. He then recorded the statement of the witnesses. After completion of investigation, he laid a charge sheet.

4. Based on the above materials, the trial court framed charge

for an offence under Section 435 IPC, against the accused and he denied the same. In order to prove its case, on the side of the prosecution, as many as 7 witnesses were examined and 9 documents and 2 material objects were marked.

5. Out of the witnesses examined, P.W.1 is the owner of the land. According to him, he had stored the hay stack in his land. On the date of occurrence, at about 10.00 p.m., the accused had set fire to the hay stack and ran away. P.W.2, the Village Administrative Officer, who has issued a patta to the land of P.W.1, also issued a certificate to the effect that P.W.1 is the owner of the land and the same is marked as Ex.P.2. P.W.3 and P.W.4 are witnesses to the observation mahazar. P.W.5 is said to be an eye-witness to the occurrence. According to him, at the time of occurrence, he saw the accused running from the place of occurrence. P.W.6 is the photographer, who took photos in the place of occurrence. P.W.7, is the investigating officer, who registered the case, conducted investigation and laid charge sheet against the accused.

6. When the above incriminating materials were put t the accused, he denied the same. However, he did not examine any witness nor marked any documents. Considering all the materials the trial court acquitted the accused. Now challenging the order of

Acquittal the present Revision has been filed by PW1/Defacto Complainant.

7. Heard Mr.I.Munirathnam Naidu, learned counsel appearing for the petitioner and Mrs.M.F.Shabana, learned Government Advocate (Crl. Side) appearing for the first respondent and M/s.T.R.Ravi & S.Muthukumar, learned counsel appearing for the second respondent.

8. P.W.5 is the only eye-witness to the occurrence. He is also a close relative of P.W.1. According to P.W.5, he, along with 20 to 30 villagers were witnesses to the occurrence. But the prosecution did not witness any one of them. It is also the specific case of P.W.5 that one Dhanajayan and Narasimhan have also seen the accused at the place of occurrence. But both of them were not examined by the prosecution. P.W.1 is only a hearsay witness.

9. Yet another circumstance relied on by the prosecution is that the slippers of the accused were found in the scene of occurrence, but the slippers were not seized by the police. One of the villagers, who said to have identified the slippers, was also not examined by the prosecution.

10. The court below, considering all the materials

available on record carefully, disbelieved the evidence of P.W.5 and acquitted the accused, and, I find no irregularity or illegality or perversity in the order passed by the court below and there is no merit in the revision and the same is liable to be dismissed.

11. Accordingly, the criminal revision case is dismissed and the judgment of the court below is confirmed.

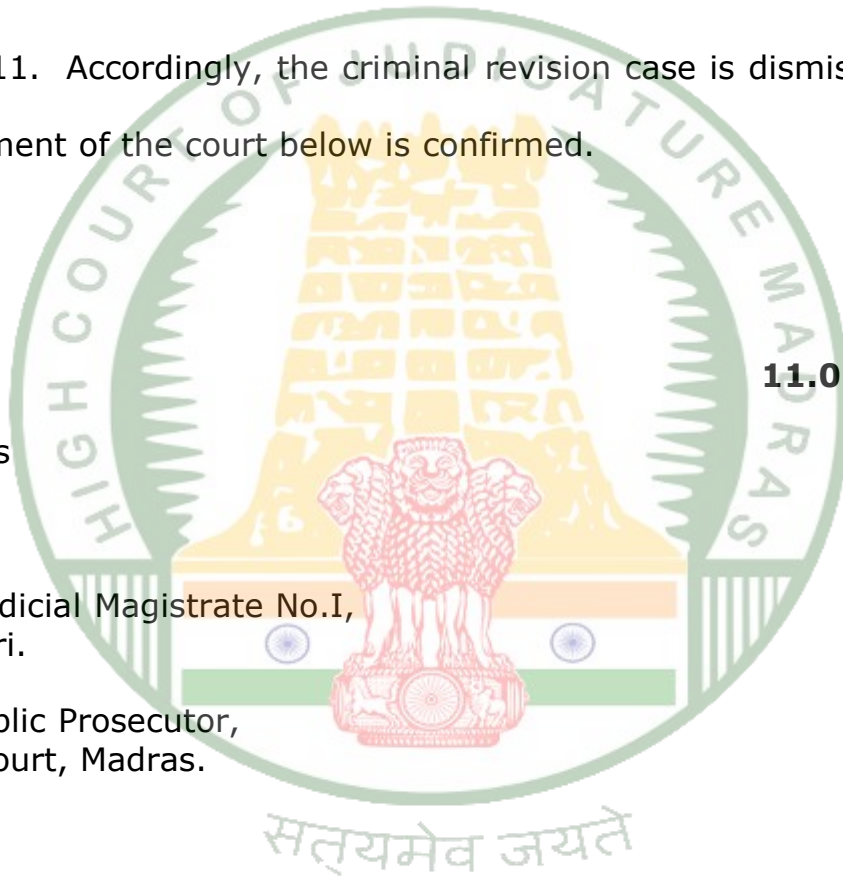
**11.01.2017**

mrp  
Index:Yes

To

1. The Judicial Magistrate No.I,  
Ponneri.

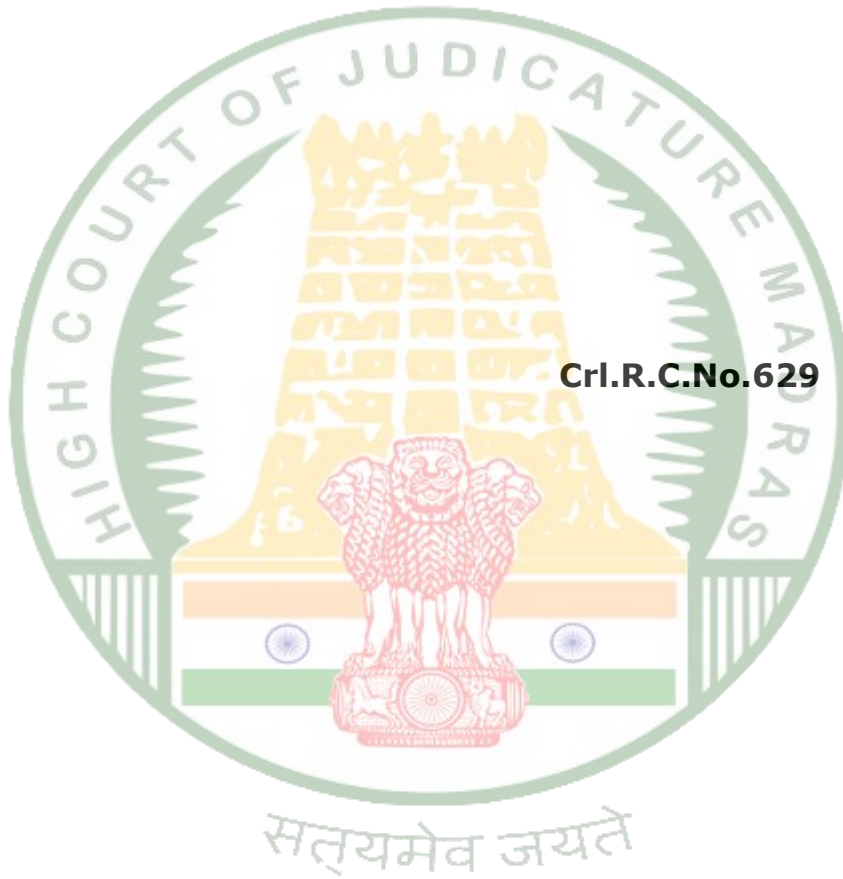
2.The Public Prosecutor,  
High Court, Madras.



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**V.BHARATHIDASAN, J.**

mrp



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**11.01.2017**