

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.01.2017

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Criminal Revision Case No.756 of 2011

K.Subramaniyan

... Petitioner

Versus

1.The Sub Inspector of Police,
Thirumanur Police Station,
Ariyalur District,

2. Paramasivam

3. Kaliyamoorthy

... Respondents

Revision Petition filed under Sections 397 and 401 of Cr.P.C., to set aside the Judgment passed by the Judicial Magistrate, Ariyalur in C.C.No.18 of 2006, dated 19.01.2011 and convict the 2nd respondent for the offence under Sections 323, 325 I.P.C. and the 3rd respondent under Sections 323 and 427 I.P.C.

For Petitioner : Mr.S.Parthasarathy

For Respondents: Mr. Rameshbabu,
Government Advocate (Crl. Side)
for R1

Mr.V.Rajamohan, For R2 & R3

ORDER

Challenging the order of acquittal, the de-facto complainant has filed the present revision before this Court. The 2nd and 3rd respondents are the accused A1 & A2 in CC No.18 of 2006 on the file of the learned Judicial Magistrate, Ariyalur. A1 stood for the offence under Sections 323 and 325 of I.P.C. and A2 stood for the offence under Sections 323 and 427 of I.P.C.

2. The trial Court after considering the oral and documentary evidence acquitted both the accused / respondents 2

& 3 herein. Challenging the above said Order of Acquittal, the de-facto complainant is before this Court with this revision.

3. The case of the prosecution is as follows :-

On 06.08.2005, the first accused assaulted PW2, and A2 assaulted PW1 and uttered abusive words against them. PW1, who is the injured witness in this case, has given a complaint to the first respondent police. PW7, the Head constable of Thirumanur Police Station recorded the statement of PW1, who was hospitalised at Government Hospital, Ariyalur and the said complaint is marked as Ex.P.1. PW8, Sub-Inspector of Police had registered a case in Crime No.195 of 2005 for the offences under Sections 147, 148, 323, 326, 427 and 506 (ii) of IPC. PW8, Sub Inspector of Police, commenced investigation went to the scene of occurrence and he prepared an observation mahazar, rough sketch and recorded the statements of witnesses, then he arrested the accused and remanded them to judicial custody. PW8, also recorded the statement of Doctor-PW6, and after completion of the investigation, filed charge sheet against the accused on 25.08.2005.

4. Based on the above material, the Trial Court framed charges against A1 for the offences under Section 323 & 325 and against A2 for the offences under Sections 323 & 427 of IPC. When the accused were questioned under Section 313 of Criminal Procedure Code, with regard to incriminating circumstances, they denied their complicity on the side of the accused they have not chosen to examine any witness and mark documents.

5. In order to prove the case prosecution had examined 8 witnesses and marked 7 documents as Exs.P1 to P7. Out of witnesses examined, PW1 is the injured witness, according to him on 06.08.2005 at about 10.40 a.m., there was a quarrel between him and the accused. At that time, A1 had attacked PW2, who is the sister of PW1 and broken her teeth. When PW1 questioned A1, he pushed him down and at the same time A2 also attacked PW3. Simultaneously A1 attacked PW1 and PW3. PW3 is the father of PW1. According to him (PW3), A1 and A2 had attacked PW1 and also damaged tiles in his house. PW4 and PW5 are turned hostile. PW6 is the Doctor, examined PW1, at Government Hospital, Ariyalur, where he was treated as an Out-patient. PW7 the Head Constable recorded the statements of PW1. PW8, Sub Inspector of Police conducted investigation and after completion of investigation, he filed a charge sheet against the accused.

6. The trial Court, after analyzing the oral and documentary evidence, acquitted the accused. As against the said orders of acquittal, the petitioner has filed the present Criminal Revision Case.

7. I have heard the submissions of Mr.S. Parthasarathy, learned counsel for the petitioner and Mr.Ramesh Babu, learned Government Advocate (Criminal Side) appearing for the first respondent.

8. There are three eye witnesses to the occurrence of the crime. According to PW1, A1 attacked PW2 in her face and broken her teeth, PW2 is the sister of PW1. PW3 is the father of PW1, eyewitness to the occurrence. There are lot of contradictions in their evidence regarding the nature of the injuries sustained by them. The medical evidence also did not corroborate the evidence of PW1 and PW2. Apart from that all the three eye witnesses are interested witnesses and in view of the contradictions in their evidence it is highly unsafe to rely upon their evidence in the absence of any corroboration from any independent witness.

9. Considering the above materials, the trial Court acquitted the accused. This Court finds no infirmity or illegality or perversity in the Order passed by the trial Court and hence the Criminal Revision Case is liable to be dismissed. Accordingly, the Criminal Revision Case is dismissed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

vsi2

To :

1. The Judicial Magistrate,
Ariyalur
 2. The Sub Inspector of Police,
Thirumanur Police Station,
Ariyalur District.
 3. The Public Prosecutor,
High Court, Madras - 104.
- +1cc to M/s.S.Parthasarathy, Advocate sr.1506
+1cc to M/s.N.Mohideen Basha, Advocate sr.1788

Criminal Revision Case
No.756 of 2011

ss(co)
ss(20/3/2017)