

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.01.2017

PRONOUNCED ON : 11.01.2017

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

CRL.R.C.No.767 of 2011

Atul Khader Badrunnisa Fhamedia @
Fehmide Abdul Hai ... Petitioner/Defacto/
Complainant

Vs.

1. Asmathullah Hashmi ... 1st Respondent/Accused
2. State by
The Inspector of Police,
E2, Royapettah Police Station,
Chennai - 600 014.
Crime No.372 of 2009. ... 2nd Respondents/Complainant

Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure Code against the judgment of acquittal passed by the XVIII Metropolitan Magistrate Court, Saidapet, Chennai in C.C.No.18207 of 2009 dated 04.02.2011.

For Petitioner: Mr.P.Venkatasubramanian
For respondents: Mr. Munir Uddin Sheriff,
for R1
: Mrs. M.F.Shabana,
Gov. Advocate (Crl. Side)
for R2

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O R D E R

Challenging the order of acquittal passed by the XVIII Metropolitan Magistrate, Saidapet, Chennai in C.C.No.18207 of 2009 dated 04.02.2011, the present revision has been filed.

2. The petitioner/defacto complainant has filed a complaint against the first respondent herein for an offence under Section 506(i) IPC. The above complaint has been given stating that while he was in U.S.A., on 26.12.2008, at about 11.45 p.m., the first respondent/accused, called the petitioner to his telephone number 5864460804 from his Mobile No.98840 66667, and threatened the petitioner/defacto complainant. The petitioner/defacto complainant has also recorded the telephonic conversation and subsequently, he has given a complaint on 13.06.2009. Based on the said complaint, P.W.3 registered a case and examined the witnesses and laid the charge sheet.

3. Considering the material, the trial Court framed charge for an offence under Section 506(i) IPC against the accused and he denied the same. In order to prove its case, as many as 3 witnesses were examined and 5 documents were exhibited, besides one material object.

4. Out of the witnesses examined, P.W.1 is the complainant. According to him, on 26.12.2008, at about 11.45 p.m., the accused called him from America through his mobile phone and threatened him. Subsequently, after his return to India on 13.06.2009, he has given a complaint. Even prior to that, he has given a complaint, on 09.02.2009 at America and seeking some action from the Indian Embassy Officials. In order to prove his case, he has also produced the cassette containing the conversation of the accused and recorded by P.W.1, which was marked as M.O.1.

5. P.W.2, Mahazar witness, has turned hostile. P.W.3 is the Investigating officer. According to him, he has not conducted any investigation to find out from which number the call has been received by the petitioner/defacto complainant and what time the telephone call has also been made by the accused.

6. Considering the above material, the trial court acquitted the accused. Challenging the acquittal, the present revision has been filed.

7. Heard Mr. P.Venkatasubramanian, learned counsel for the appellant and Mr. Munir Uddin Sheriff, learned counsel for the first respondent and Mrs.M.F.Shabana, Government Advocate (Criminal Side) for the second respondent.

8. From the perusal of the documents and the materials available on record, it is seen that the prosecution has not taken any steps to find out from which phone number the phone call has been made and in whose name the said telephone number stands. Considering all the materials, the trial court came to a conclusion that the prosecution has not proved the case beyond

all reasonable doubt and acquitted the accused.

9. In the above circumstances, I find no legality or irregularity in the order passed by the court-below. Hence, the revision is liable to be dismissed. Accordingly, the Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrp

To

1. XVIII Metropolitan Magistrate Court,
Saidapet, Chennai

1a do thro the Chief Metropolitan Magistrate
Chennai

1b The Inspector of Police
E2 Royapettah Police Station
Chennai 600 014

2. The Public Prosecutor,
High Court, Madras.

3 The Section Officer
Criminal Sections
High Court, Madras

+1cc to Mr.M. Muniruddin Sheriff, Advocate, S.R.No.3328

pk(CO)
md(06/02/2017)

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