

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2017

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.R.C.No.776 of 2011

Chandran

... Petitioner

vs

1.State

Rep. by the Sub Inspector of Police,
Thirukuvalai Police Station,
Thirukuvalai.

2.V.Paapaiyam

3.Perumal

4.Jothi

5.Subramaniam

6.Palanivel

7.Nayeenan

... Respondents

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, against the judgment dated 01.02.2011 made in C.C.No.411 of 2009 on the file of the learned Judicial Magistrate No.II, Nagapattinam.

For Petitioner : Mr.S.Vadivelmurugan

For Respondents : Mrs.M.F.Shabana for R-1
Government Advocate(Crl. Side)
Mr.David Thangaraj for R2 to R7

ORDER

The petitioner herein is the defacto complainant in C.C.No.411 of 2009 on the file of the learned Judicial Magistrate No.II, Nagapattinam, and respondents 2 to 7 herein are the accused in that case. They stood charged for the offences under Sections 147, 148, 448, 427, 506(ii) IPC. After trial, the trial Court acquitted the accused from all the charges levelled against them. Challenging the above said order of acquittal by the trial Court, the petitioner/defacto complainant preferred the present criminal revision case.

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

The petitioner/defacto complainant is the owner of a property in Mutharasapuram village. There is a overhead electricity line passing through his land, and some trees were standing below the overhead electricity line, obstructing overhead line and free supply of electricity. Hence, the Tahsildar passed an order directing the Tamil Nadu Electricity Board to cut and remove the trees. Pursuant to the same, the first accused/Panchayat President along with other accused were cutting the trees. At that time, the petitioner/defacto complainant questioned the same, the accused threatened him, and criminally intimidated him and also chase him away. Immediately, the petitioner went to the police station and lodged a complaint [Ex.P1] against the accused on 11.11.2006.

(ii) P.W.11, the Sub Inspector of Police, working in the respondent police station, on receipt of the complaint, registered a case in Crime No.49 of 2007 on 09.04.2007 for the offences under Sections 147, 427 and 506(ii) IPC, prepared first information report [Ex.P4], then proceeded to the scene of occurrence, prepared observation mahazar[Ex.P5], a rough sketch[Ex.p6]. He examined the witnesses and recorded their statements and after completion of investigation, he laid charge sheet.

3. Based on the above materials, the Trial Court framed charges as detailed above and the accused denied the same as false. In order to prove the case of prosecution, as many as 11 witnesses were examined and 6 documents were marked.

4. Out of the said witnesses examined, P.W.1 is the defacto complainant and owner of the property. According to him, on 11.11.2006 at about 10.00 a.m., all the accused trespassed into his land and cut and removed the trees standing there and when he questioned the same, the first accused/Panchayat President and other accused threatened him and chased him away. Immediately, he lodged a complaint before the respondent police. P.W.2 is another eye witness to the occurrence. He has also questioned the first accused and the first accused threatened him. P.W.3 says that all the

accused cutting and remove the trees standing in P.W.1's land. P.Ws.4 and 5 also says that all the accused cutting and remove the trees standing in P.W.1's land. P.W.6 is claiming to be a legal hire of one Krishnasamy Iyer. According to him, the land belongs to one Krishnasamy Iyer, and the accused have cut and removed the trees standing in the land. P.W.7, the Village Administrative Officer. According to him, the lands belongs to one Krishnasamy Iyer. P.W.8, the Assistant Engineer, working in the Tamil Nadu Electricity Board. He says that he has received a letter from Tahsildar on 11.11.2006, to remove the trees obstructing the supply of electricity. P.W.9 valued the trees worth about Rs.5,000/-. P.W.10, the Head Constable, working in the respondent police station. He received the complaint on 11.11.2006 from P.W.1. P.W.11, the Sub Inspector of Police, working in the respondent police station, registered the case and prepared first information report, examined the witnesses and recorded their statements and after completion of investigation, he laid charge sheet.

5. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., they denied the same as false. Their defence were total denial. They did not examined any witnesses nor marked any document.

6. After elaborate trial, the trial Court acquitted the accused for the offences leveled against them. Challenging the above said order of acquittal, the petitioner/defacto complainant preferred this present criminal revision case.

7. I have heard Mr.S.Vadivelmurugan, the learned counsel appearing for the revision petitioner and Mrs.M.F.Shabana, the learned Government Advocate(Crl. Side) appearing for the first respondent and Mr.David Thangaraj, the learned counsel appearing for the respondents 2 to 7.

8. P.W.1 is claims to be a owner of the property. But, he has not produced any documents to show that the property belongs to him. But, where as, P.W.7, the Village Administrative Officer stated that the lands belongs to one Krishnaswamy Iyer and the Patta also standing in his name. P.W.6, the legal heirs of the said Krishnasamy Iyer also stated that the land belongs to Krishnasamy Iyer and he is only in possession of the property. From their evidence, it is seen that P.W.1 is not the owner of the property. P.W.1 did not produce any document to show that the said land belongs to him. Apart from P.W.8, the Assistant Engineer, Tamil Nadu Electricity Board, has stated that on 11.11.2006 he received the letter from Tahsildar [Ex.P2] stating that the trees standing in the disputed land obstructing the overhead Electricity line passing

through the land and directed them to cut and remove the same. Only pursuant to the order passed by the Tahsildar, the first accused/Panchayat President of the Village and others cut and remove the trees. Apart from that even though P.W.1 stated that the first accused threatened him and chased him away. But, the other witnesses did not corroborate the evidence of P.W.1. Considering all the materials available and also considering the facts and circumstances of the case, the Court below acquitted the accused. I have carefully considered the entire material available on record and I find no perversity or irregularity in the order passed by the Court below. Hence, I find no reason to interfere with the order passed by the Court below.

9. In the result, the criminal revision is dismissed and the order of acquittal passed by the learned Judicial Magistrate No.II, Nagapattinam in C.C.No.411 of 2009 dated 01.02.2011 is confirmed.

15.02.2017

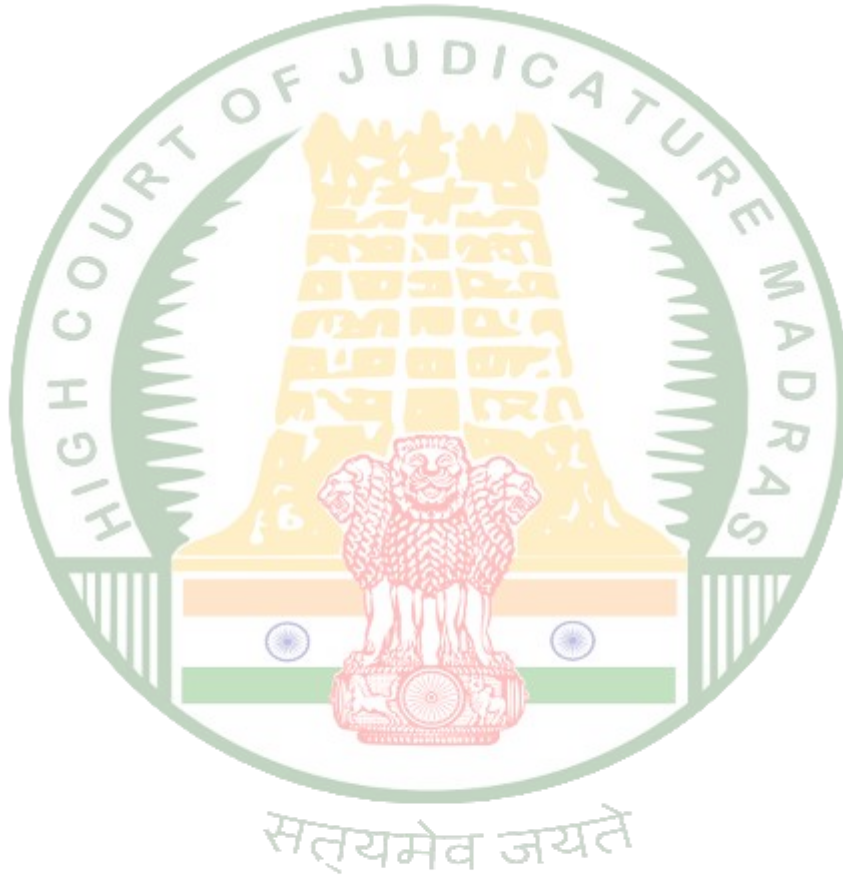
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To

1.The Judicial Magistrate No.II,
Nagapattinam.

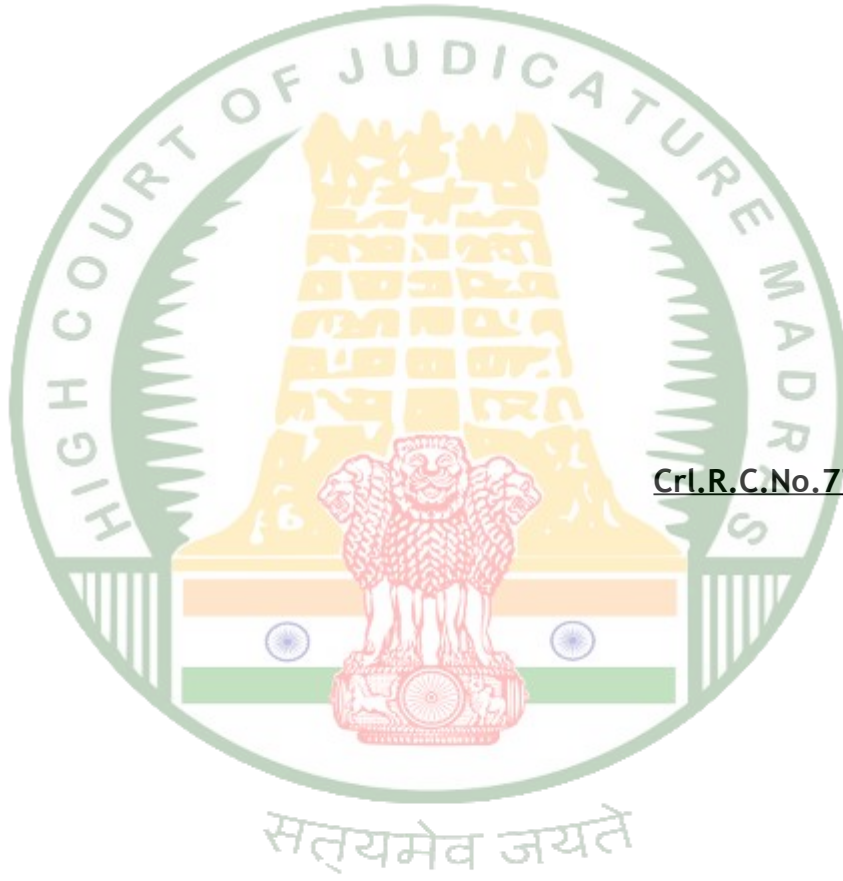
3.Public Prosecutor,
High Court, Madras-104.



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V.BHARATHIDASAN.J.,

rrg



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