

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.782 of 2011

A.V.Mariappan

.. Petitioner

Vs

1.M.P.Rajan

2.State by :

Sub Inspector of Police, (L&O),
No.1, Royapuram Police Station,
Chennai 13.

.. Respondents

Prayer:- Criminal Revision filed under Sections 397 and 401 Cr.P.C., to call for the records in C.C.No.3574 of 2009 on the file of the learned XVI Metropolitan Magistrate, George Town, Madras and revise the order of acquittal passed in C.C.No.3574 of 2009 dated 12.10.2010 by the learned XVI Metropolitan Magistrate, George Town, Madras by setting aside the same.

For Petitioner : Mr.R.C.Manoharan

For 2nd

Respondent : Ms.Gayathri Shivani

For 1st

Respondent : Mrs. M.F.Shabana,

Govt. Advocate (Criminal

side)

O R D E R

The present criminal revision has been preferred against the order of acquittal passed in C.C.No.3574 of 2009 dated 12.10.2010 by the learned XVI Metropolitan Magistrate, George Town, Madras.

2. The first respondent/accused herein stood charged for the offences under Sections 448, 341 and 324 IPC in C.C.No.3574 of 2009. The trial Court, by judgment dated 12.10.2010, acquitted the first respondent/accused. Challenging the above said order of acquittal, the present criminal revision has been filed by the revision petitioner/defacto complainant.

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

(i) P.W.1 is an injured witness in this case. According to him, on 13.11.2008 at about 5.20 a.m, the first respondent/accused and some other persons broke open the lock and trespassed into his house and damaged the things inside the house. When he had questioned the same, the accused had attacked him with an iron rod and other persons also attacked him on his body and shoulder. He was taken to Government Stanley hospital, wherein his statement was recorded by P.W.6, Sub Inspector of Police. Thereafter, P.W.6 registered a case in Cr.No.261 of 2008 under Sections 448, 341 and 324 IPC and prepared F.I.R and commenced the investigation. During the investigation, the first respondent/accused was arrested on 8.3.2009 at about 11.00 a.m. Then P.W.6 recorded the statement of witnesses and after completion of investigation, P.W.6 filed a charge sheet against the accused.

(ii) Based on the above materials, the trial Court framed charges against the accused under Sections 448, 341 and 324 IPC. The accused denied the same. In order to prove the case of the prosecution, on the side of the prosecution, six witnesses were examined and four documents were marked as exhibits. No material Objects had been produced before the Court.

(iii) As per the evidence of P.W.1, it is seen that on the date of occurrence, the first respondent/accused and four other persons broke open the lock and trespassed into the house and attacked P.W.1 with an iron rod and caused injury and the other accused persons also attacked P.W.1 and he was admitted in the Government Stanley Hospital, wherein, his statement was recorded by P.W.6. P.W.2 and P.W.3 also claimed to be eye-witnesses and they are supporting the case of the prosecution.

(iv) P.W.4, who is the Doctor/Assistant Professor in the Stanley Medical Hospital, examined P.W.1, wherein P.W.1 stated that he was attacked by one known and four unknown persons. P.W.4 admitted him in the hospital and issued Accident Register - Ex.A.2. P.W.5, is the Doctor, had given treatment to the accused and found injury in his forehead, crush injury in the left hand's little finger, an abrasion on the back side of the left hand, and issued a wound certificate Ex.P.3. P.W.6 - Inspector of Police registered the First Information Report and conducted investigation and arrested the accused. After completion of the investigation, he laid the charge sheet against the accused.

(v) When the above incriminating materials were put to the accused under Section 313 Cr.P.C., he denied the same as false. However, he did not choose to examine any witness or mark any

documents on their side.

(vi) Having considered all the above materials, the trial Court acquitted the accused. Aggrieved by the acquittal of the accused from the charges, the present Criminal Revision has been filed.

3. I have heard Mr.R.C.Manoharan, learned counsel for the petitioner and Ms.Gayathri, learned Legal Aid counsel, appearing for the first respondent and Ms.M.F.Shabana, learned Government Advocate (Criminal side) appearing for the State/2nd respondent and I have also perused the records carefully.

4. From the evidence of P.W.1 and other prosecution witnesses, it could be seen that on the day of occurrence, one known person and four other unknown persons attacked P.W.1 and caused injuries. P.W.1 was admitted in the hospital, he had given a statement before P.W.4, the Doctor, that one known and four other unknown persons attacked him and P.W.4 found one injury in the head. Subsequently, P.W.5 had given treatment to P.W.1. and he found three injuries in forehead, crush injury in the little finger and abrasion on the back side of the left hand, the first ever statement of P.W.1 was that one known person and four other unknown persons attacked him. Absolutely, there is no investigation about other four persons, who are said to have involved in the occurrence. Eventhough P.W.2 and P.W.3 claimed to be the eye-witnesses, they have not supported to the case of prosecution. So far as injuries caused to the petitioner is concerned, the same is not corroborated by the medical evidence. The trial Court considered all the evidence and materials available on record came to the conclusion that the prosecution failed to prove the case beyond reasonable doubt and acquitted the accused.

5. This revision was preferred against the order of acquittal and in a revision against acquittal, there is a double presumption in favour of the accused. Firstly, the presumption of innocence available to him. The fundamental principle of criminal justice delivery system is that every person, accused of committing an offence shall be presumed to be innocent, unless his guilt is proved by a competent Court of law. Secondly if the accused has secured an order of acquittal, the presumption of his innocence is reaffirmed and strengthened by the trial Court. Even if two reasonable conclusions are possible on the basis of evidence on record, the appellate Court should not disturb the finding of the acquittal recorded by the trial Court. In the instant case, as already held, the prosecution has stoutly suppressed the origin and genesis of the occurrence and as truth is not before this Court and the trial

Court has rightly acquitted the accused. Hence, I find no illegality or irregularity or perversity in the judgment of the trial Court. In the above said circumstances, I find no reason to interfere with the order of acquittal passed by the trial Court. Hence, the revision fails and the same deserves to be dismissed.

6.As a result, the Criminal Revision fails and accordingly, the same is dismissed. The judgment of the trial Court in C.C.No.3574 of 2009 dated 12.10.2010 is hereby confirmed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The XVI Metropolitan Magistrate,
George Town,
Madras.

2.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.R.C. Manoharan, Advocate, S.R.No.3894
+lcc to Mr.J. Gayathri Shivani, Advocate, S.R.No.3828

mp(CO)
md(17/03/2017)

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Cr1.R.C.No.782 of 2011

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