

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Cr1.R.C.No.857 of 2011

Sathyabama

Petitioner/P.W.1

Vs

1. State by
The Sub-Inspector of Police,
Paramathy Police Station,
(Crime No.64/2007). ..Respondent/Complainant

2.Ganesan

3. Pappu

4. Pushpa ..Respondents

Prayer:- Criminal Revision filed under Section 397 r/w. 401 Cr.P.C., to set aside the order passed by the District-Munsif-cum-Judicial Magistrate, Paramathy in C.C.No.142/2007 on 17.03.2010.

For Appellant : Mr. P.R.Balasubramanian

For Respondent : M.F.Shabana,
Gov. Adv.(Cr1. Side), for-R1

JUDGEMENT

Challenging the order of acquittal passed by the Judicial Magistrate, Paramathy in C.C.No.142/2007 dated 17.03.2010, the present revision has been filed by the defacto-complainant/P.W.1. The respondents 2 to 4 stood charged for the offences under sections 323, 324 and 447 IPC. The trial Court, after elaborate trial acquitted the accused from all the charges. Challenging the same, the present revision.

2. The case of the prosecution in brief is as

follows:-

On 13.02.2007, at about 11.30 a.m., all the accused trespassed into the land belonging to the petitioner/P.W.1, and attacked the petitioner. A1 attacked P.W.1 with a handle of spade, A2 and A3 attacked him with hands and caused injuries. At that time, A1 also kicked P.W.2 on her stomach and caused injuries. Thereafter, they were taken to the Government Hospital, Namakkal.

3. P.W.10, Sub-Inspector of Police, on receipt of the intimation, went to the Government Hospital, Namakkal and recorded the statement of the petitioner/P.W.1, registered a case in Crime No.64 of 2007. Thereafter, she proceeded to the scene of occurrence and prepared Observation Mahazar, Ex.P.8., and Rough Sketch, Ex.P.9., in the presence of the witnesses, recorded the statement of the doctor, who treated the injured in the hospital. After completing investigation, she laid charge sheet against the accused.

4. Based on the above materials, the trial Court framed the charges as detailed in the first paragraph of this judgment against the accused. The accused denied the same. In order to prove the case of the prosecution, on the side of the prosecution, as many as 10 witnesses were examined and 9 documents were exhibited.

5. Out of the witnesses examined, P.W.1 is the injured witness. According to him, on the date of occurrence, all the accused have trespassed into the land and attacked her with the handle of spade and A1 attacked P.W.2 on her stomach. P.W.2 is an eye-witness to the occurrence, who is the daughter of P.W.1. She also stated that all the accused attacked P.W.1 and they also kicked her on her stomach. P.W.3 is also an another eye-witness to the occurrence. P.W.4 is also yet another eye-witness. P.W.5 is only a hearsay witness. P.W.6 is a witness to the observation mahazar, turned hostile. P.W.7, Village Administrative Officer, has stated that the land belongs to P.W.1. P.W.8 is the doctor, who examined P.Ws.1 and 2 and has given Accident Registers. P.W.9 is the villager, who is also a witness to the observation mahazar. P.W.10, then Sub-Inspector of Police, on 14.02.2007, at about 12.30 p.m., on receipt of the memo from the hospital, went to the hospital and recorded the statement of P.W.1 and based on the said statement, she registered a case in Crime No.64 of 2007 for the offences under Sections 323 and 324 IPC. She has conducted investigation and after completion of investigation, she laid the charge sheet.

6. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., they denied the same as false. However, they did not choose to examine any of the witnesses or mark any documents on their side.

7. Considering all the above material, the trial

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Court acquitted all the accused on the ground that the occurrence is said to have taken place on 13.02.2007, at about 11.30 p.m., but the crime has been registered only on 26.02.2007, at about 2.00 p.m., and the First Information Report was received by the Judicial Magistrate on 27.02.2007, at about 6.45 p.m. There is a 13 days of delay in filing the complaint. Even though, prosecution tried to explain the delay stating that after the occurrence, a complaint was filed by P.W.1 and C.S.R. was also issued and thereafter the case was registered after 13 days, but the CSR papers have not been produced by the prosecution. Apart from that all the eye-witnesses to the occurrences are interested witnesses and the independent witnesses have turned hostile.

8. As rightly contended by the trial Court, there was no proper explanation for the delay and all the witnesses are all interested witnesses. Considering all the above, the trial court acquitted the accused and I do not find no reason to interfere with the judgment of the trial court. Hence, this revision is liable to be dismissed.

9. In the result, the criminal revision case is dismissed and the judgment of the court below is confirmed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

mrp

To

1. The District Munsif-cum-Judicial Magistrate,
Paramathy.

2.The sub Inspector of Police,Paramathy Police Station.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.P.R.Balasubramanian,Advocate sr.1123

Cr1.R.C.No.857 of 2011

gjII(co)
ss(8/3/2017)