

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.988 of 2011

Mohamed Ashraf .. Petitioner

Vs

1.Abdul Latheef

2.Amirunisa

3.Inspector of Police,
S-11, Tambaram Police Station,
Tambaram,
Chennai.
Cr.No.2242 of 2007.

.. Respondents

Prayer:- Criminal Revision filed under Sections 397 and 401 Cr.P.C., to set aside the judgment passed in S.C.No.322 of 2008 dated 01.09.2009 on the file of the learned Assistant Sessions Judge, Tambaram.

For Petitioner : Mr.V.Purushothaman

For Respondents
1 and 2 : Ms.V.Renuka Devi

For 3rd
Respondent : Mrs. M.F.Shabana,
Govt. Advocate (Criminal side)

O R D E R

The present criminal revision has been filed against the order of acquittal passed in S.C.No.322 of 2008 dated 01.09.2009 on the file of the learned Assistant Sessions Judge, Tambaram. The respondents 1 and 2/ are the accused and they stood charged for the offences under Sections 380 and 506(ii) IPC and under Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act in S.C.No.322 of 2008. The trial Court, by judgment dated 01.09.2009, acquitted respondents 1 and 2. Challenging the above said order of acquittal, the present criminal revision has been filed by P.W.4.

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

(i) P.W.1 and P.W.4. are the mother and the brother of A.1 respectively. There was a civil dispute in respect of a

house property. Earlier P.W.1 said to have executed a settlement deed in favour of P.W.4 and A.1. Subsequently, she cancelled the said settlement deed and executed another settlement deed in favour of other brothers also. In the above said circumstances, on 16.04.2007, the accused demolished the first floor of the building and damaged the things and stolen the silk sarees and jewels. When it was questioned by P.W.1 and P.W.4, A.1 and A.2 threatened them with dire consequences. Hence, P.W.1 gave a complaint. Based on the complaint, a criminal case was registered by P.W.11, Sub Inspector of Police and conducted investigation. After completion of investigation, P.W.11 filed a charge sheet against the accused.

(ii)Based on the above materials, the trial Court framed charges against the accused under Sections 380 and 506(ii) IPC and under Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act. The accused denied the same. In order to prove the case on the side of the prosecution, eleven witnesses were examined and four documents were marked as exhibits. No material Objects had been produced before the Court.

(iii)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.

(iv) Having considered all the above materials, the trial Court acquitted the accused from the charges. Aggrieved by the acquittal of the accused from the charges, the present Criminal Revision has been filed by P.W.4.

3.I have heard Mr.V.Purushothaman, learned counsel for the petitioner, Ms.V.Renuka Devi, learned counsel for the first and second respondents and Mrs.M.F.Shabana, learned Government Advocate (Criminal Side) for the third respondent.

4.P.W.1 and P.W.4 are the mother and brother of A.1 respectively. According to P.W.1 and P.W.4, the accused demolished the first floor of the building and damaged the things and stolen silk sarees and jewels. P.W.2 is the another son of P.W.1. He also speaks about the demolition of the building. P.W.3 is the daughter of P.W.1 and she also speaks about the demolition of the building. P.W.7 has stated that A.1 demolished the building before two years and P.W.9 stated that A.1 demolished the building. P.W.11, who is the investigating officer, registered the complaint and filed the charge sheet.

5.From the perusal of records it is seen that the trial Court, after considering all the evidence, held that P.W.1 and P.W.2 are not the eye witnesses to the occurrence and there is no evidence to prove that the accused demolished the

building, damaged the articles and stolen the silk sarees, jewels and other articles. None was recovered from the accused. Moreover, the date and the time of the occurrence were not mentioned in the complaint and the complaint has been filed after three months of the occurrence. The trial Court, after considering all the evidence and materials available on record, came to the conclusion that the prosecution failed to prove the case beyond any reasonable doubt and acquitted the accused.

6.This Court has carefully gone through the materials available on record.

7.In an appeal against acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him and 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. The trial Court, after considering the entire evidence, has rightly acquitted the accused, and 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.

8.In the result, the Criminal Revision fails and accordingly, the same is dismissed. The judgment of the trial Court in S.C.No.322 of 2008 dated 01.09.2009 is hereby confirmed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

cla

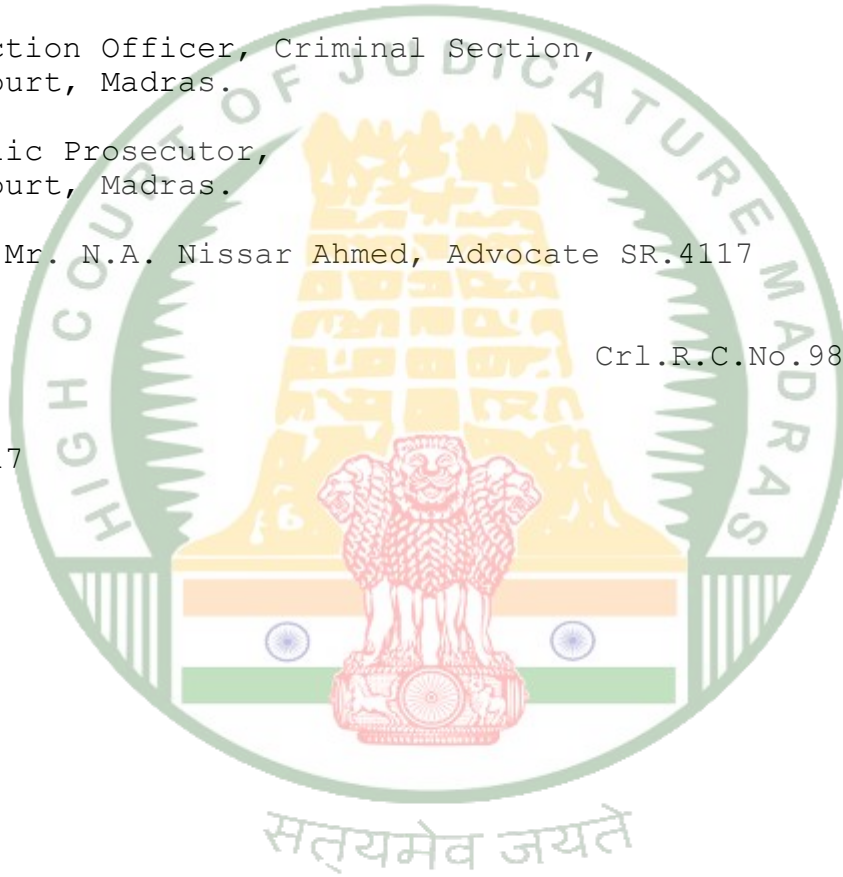
To

1. The Assistant Sessions Judge,
Tambaram.
2. The Inspector of Police,
S-11, Tambaram Police Station,
Tambaram, Chennai.
3. The Section Officer, Criminal Section,
High Court, Madras.
4. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr. N.A. Nissar Ahmed, Advocate SR.4117

Cr1.R.C.No.988 of 2011

SSI (CO)
EU 31.10.17



WEB COPY