

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 08.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN**

Crl.A.No.86 of 2009

Tamizh @ Tamizharasu ... Appellant

vs.

State rep. by
The Inspector of Police,
N-3, Muthialpet Police Station,
Chennai.
(Crime No.288 of 2006)

... Respondent

Criminal Appeal preferred under Section 374(2) Cr.P.C.,
against the judgement dated 27.09.2007 passed by the learned
Additional District and Sessions Judge, (Fast Track Court No.I),
Chennai, in S.C.No.316 of 2007.

For Appellant : Mr.S.S.Jothimani
Legal Aid Counsel

For Respondent : Mrs.M.F.Shabana
Government Advocate(Crl. Side)

JUDGMENT

The sole accused, in Sessions Case No.316 of 2007, on the
file of the learned Additional District and Sessions Judge, (Fast Track
Court No.I), Chennai, is the appellant herein. He stood charged for

the offence under Sections 341, 392, 397, 307 and 506(ii) IPC. The Trial Court, after trial, by Judgment dated 27.09.2007, convicted the accused under Section 341 IPC and sentenced him to pay a fine of Rs.500/- in default to undergo one month simple imprisonment and convicted him under Section 506(ii) IPC and sentenced him to undergo three years rigorous imprisonment. The accused is acquitted for the offences under Sections 392, 397 and 307 IPC. Challenging the above said conviction and sentence, the appellant/accused is before this Court with this Criminal Appeal.

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

(i) P.W.1 is the victim in this case. P.W.2 is the husband of P.W.1. On 29.06.2006 at about 5.00 am., she along with her husband going for morning walk near Amman Kovil Street, Broadway, Chennai. At that time, the accused, who is known to them, waylaid them, snatched the wallet and threatened them with dire consequences, and intimidated not disclose the same to anybody. Then, he had taken Rs.500/- from the wallet and throw the same near the market, scolded them with filthy language and ran away. Immediately, P.W.1 along with her husband went to the police station, and P.W.1 lodged a complaint[Ex.P1].

(ii) P.W.6, the Inspector of Police, in the respondent police

Crime No.288 of 2006 for the offences under Sections 341, 392, 397, 307 and 506(ii) IPC and prepared first information report[Ex.P4]. Then, he proceeded to the scene of occurrence, prepared observation mahazar[Ex.P2], a rough sketch [Ex.P3] in the presence of witnesses. As the accused involved in some other case and he has already remanded in judicial custody, on 01.07.2006, P.W.6, he took police custody and arrested him, and examined the witnesses and recorded their statements and after completion of investigation, 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 its case, the prosecution examined as many as 6 witnesses, exhibited 4 documents and no material object was marked.

4. Out of the witnesses examined, P.W.1 is the victim in this case. According to her, on the date of occurrence at about 5.00 a.m., she along with her husband going for morning walking, at that time, the accused waylaid them, threatened them with knife, snatched the wallet, took a sum of Rs.500/-, and throw the wallet near the market, and ran way. Immediately, she along with her

complaint. P.W.2 is husband of P.W.1. According to him, he along with his wife were going for a morning walking, at that time, the accused waylaid them, threatened them with knife, snatched the wallet from his wife and took a sum of Rs.500/- and throw the wallet near the market and ran away. P.Ws.3 and 4 turned hostile. P.W.5 is the witness to the observation mahazar. P.W.6 is the Inspector of Police working in the respondent police station, he has stated that on receipt of the complaint from P.W.1, registered a case, prepared a first information report, arrested the accused, examined the witnesses and recorded their statements and after completion of investigation, laid charge sheet.

5. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., he denied the same as false. His defence was a total denial. The accused did not examine any witnesses and no document was marked on his side.

6. Having considered all the above, the Trial Court convicted and sentenced the accused for the offences as stated in the first paragraph of this judgment. Challenging the above conviction and sentence, the accused is before this Court.

Counsel appearing for the appellant and Mr.M.F.Shabana, learned Government Advocate(Crl. Side) appearing for the State and I have perused the materials available on record.

8. P.Ws.1 and 2 are eye witness to the occurrence. P.W.1 is the victim. According to her, on the date of occurrence at about 5.00 a.m., she along with her husband going for morning walking, at that time, the accused residing nearby slum, waylaid them and threatened her with dire consequences and snatched the wallet from her and taken Rs.500/- and throw away the wallet and ran away. P.W.2 is husband of P.W.1, corroborates the evidence of P.W.1. In the above circumstances, the trial Court, considering all the materials, convicted the accused. Even though, the trial Court given a finding that the prosecution has failed to prove robbery and convicted the accused under Sections 341 and 506(ii) IPC and acquitted him for the offence under Sections 392, 397 and 307 IPC. From the evidence of P.Ws.1 and 2, the prosecution has clearly proved that it is this accused waylaid them and criminally intimidated them. There is no reason to disbelieve the evidence of P.Ws.1 and 2. In the above circumstances, I am of the considered view that the prosecution has proved the case beyond any reasonable doubt and I find no reason to interfere with the findings of the trial Court.

9. In the result, the Criminal Appeal is dismissed. The conviction and sentence imposed on the appellant in S.C.No.316 of 2007 dated 27.09.2007 on the file of the learned Additional District and Sessions Judge,(Fast Track Court No.I), Chennai stands confirmed. If the appellant/accused is not in custody, the trial Court is directed to take appropriate steps to secure him and commit him to prison so as to serve the sentence imposed on him. The Chairman, Legal Aid Services Authority is directed to pay a fee to the learned counsel appearing for the appellant as per rule.

08.02.2017

rrg

To

1.The Additional District and Sessions Judge,
(Fast Track Court No.I),
Chennai.

2.The Inspector of Police,
N-3, Muthialpet Police Station,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

V.BHARATHIDASAN.J.,

rrg



Crl.A.No.86 of 2009

WEB COPY

08.02.2017