

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1296 of 2010

1.Sridhar  
S/o.Subramani

2.Subash  
S/o.Subramani

.. Petitioners

VS.

State by  
Sub-Inspector of Police,  
Arni Town Police Station,  
Thiruvannamalai District.  
Crime No.633 of 2006

.. Respondent

Criminal Revision Case filed under Section 397 and 401 Cr.P.C. against the judgment of learned District and Sessions Judge, Thiruvannamalai, passed in C.A.No.101 of 2006 on 20.09.2010 confirming the judgment of learned Judicial Magistrate, Arni, passed in C.C.No.503 of 2006 on 08.12.2006.

For Petitioners : Mr.V.R.Appaswamee

For Respondent : Mr.V.Arul  
Additional Public Prosecutor

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**ORDER**

This revision arises against two concurrent judgments of Courts below convicting first petitioner for offences u/s.294(b) and 323 IPC and second petitioner for offence u/s.324 IPC and sentencing first petitioner to pay fine of Rs.500/- i/d 1 month S.I. for offence u/s.294(b) IPC and fine of Rs.2,000/- i/d 3 months S.I. for offence u/s.323 IPC and second petitioner to 6 months S.I. and fine of Rs.4,000/- i/d 6 months S.I.

2. Prosecution case is that in an occurrence on 03.04.2006 at about 11.00 p.m., petitioners/accused abused PW-2 and PW-1, mother and son, and also beat them. Second petitioner/A2 caused injuries to the right shoulder of PW-1 using a metal bangle worn by him. They also issued threats. A case was registered in Crime No.633 of 2006 on the file of respondent. Upon completion of investigation and filing of charge sheet informing commission of offences u/s.294(b), 323, 324 and 506(ii) IPC, the case was taken on file in C.C.No.503 of 2006 on the file of learned Judicial Magistrate, Arni.

3. Before trial Court, prosecution examined eight witnesses and marked six exhibits. Two witnesses were examined on the side of defence and one

exhibit was marked. On appreciation of materials before it, trial Court under judgment dated 08.12.2006, convicted first petitioner for offences u/s.294(b) and 323 IPC and second petitioner for offence u/s.324 IPC and sentenced first petitioner to pay fine of Rs.500/- i/d 1 month S.I. for offence u/s.294(b) IPC and fine of Rs.2,000/- i/d 3 months S.I. for offence u/s.323 IPC and second petitioner to 6 months S.I. and fine of Rs.4,000/- i/d 6 months S.I. There against, petitioners moved C.A.No.101 of 2006 on the file of learned District and Sessions Judge, Thiruvannamalai, which came to be dismissed under judgment dated 20.09.2010. Hence, this revision.

4. Heard learned counsel for petitioners and learned Additional Public Prosecutor.

5. Learned counsel for petitioners pointed out discrepancies between the evidence of PW-1 to the effect that though PW-1, in chief, had spoken to having gone to the police station from where they were sent to hospital, in cross, he had deposed to the complaint having been signed by him at the hospital. The evidence of PW-8, Investigation officer, was that on receiving intimation from the hospital on 04.04.2006 at 09.00 a.m., he had gone over to hospital, recorded the statement of PW-1 and thereafter, registered the case. While such contention does raise a doubt as to the manner in which the case

came to be registered what is more damaging to the prosecution case is the next contention of learned counsel for petitioners that PW-8, Investigation Officer, has admitted to the brother and sister of A2 having suffered injury and being admitted to hospital on the same day. PW-8 has further admitted that a complaint stood preferred by petitioners/accused party which was not acted upon. The defence case is further strengthened by the evidence of sister of A2 deposing to the attack upon her and her suffering injury (in the same transaction). The Doctor, who treated the sister of A2, has also been examined by defence. In the circumstances, the present case is a case where the genesis of the occurrence is unclear. In such circumstances, a finding of acquittal is to be rendered.

The Criminal Revision Case shall stand allowed. The judgment of learned District and Sessions Judge, Thiruvannamalai, passed in C.A.No.101 of 2006 on 20.09.2010 confirming the judgment of learned Judicial Magistrate, Arni, passed in C.C.No.503 of 2006 on 08.12.2006, shall stand set aside. Petitioners are acquitted of all charges. Fine amount, if any, paid shall be refunded. Bail bonds, if any, executed shall stand cancelled.

**17.08.2017**

Index:yes/no  
Internet:yes  
gm

To

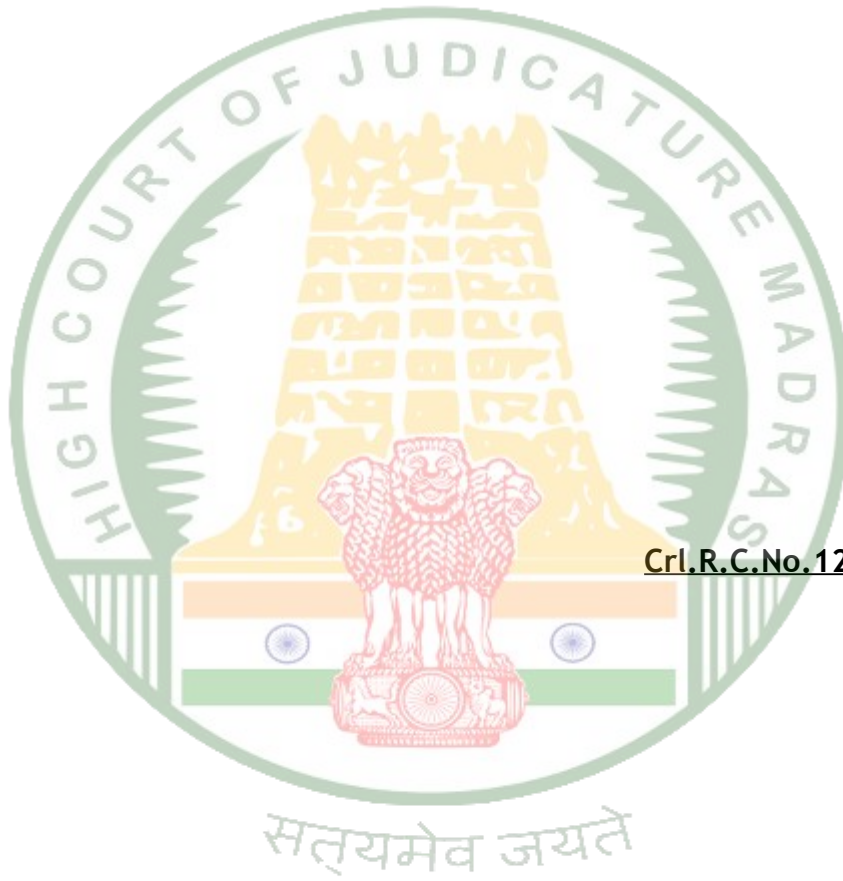
- 1.The District and Sessions Judge,  
Thiruvannamalai.
- 2.The Judicial Magistrate,  
Arni.
- 3.The Sub-Inspector of Police,  
Arni Town Police Station,  
Thiruvannamalai District.
- 4.The Public Prosecutor,  
High Court, Madras.



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C.T. SELVAM, J

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