

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2017

CORAM:

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

Crl.R.C.No.1323 of 2010

Venkataramani
S/o.Sengu Gounder

.. Petitioner

vs.

1.The State represented by
Sub-Inspector of Police,
Kaveripattinam Police Station,
Krishnagiri District.
Crime No.120 of 2001

2.Militarykaran @ Ashokan
S/o.Sadasivam

3.Vasu
S/o.Sadasivam

4.Madesh
S/o.Venugopal

5.Kutti @ Rajalingam
S/o.Venugopal

6.Sathi @ Sathiya
W/o.Vasu

7.Raja @ Rajarathinam
S/o.Sadasivam

.. Respondents

Criminal Revision Case filed under Section 397 and 401 Cr.P.C. against the judgment of learned Chief Judicial Magistrate, Krishnagiri, passed in C.C.No.49 of 2006 on 05.10.2010.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.V.Arul

Additional Public Prosecutor [R1]

Mr.J.Ramakrishnan [R2 to R7]

ORDER

This revision arises against the judgment of learned Chief Judicial Magistrate, Krishnagiri, passed in C.C.No.49 of 2006 on 05.10.2010.

2. Prosecution case is that on 30.01.2001 at about 08.00 p.m., owing to previous enmity, accused/respondents 2 to 7 formed an unlawful assembly and entered the house of petitioner, assaulted him using deadly weapons and caused grievous injuries. Accused had also damaged bureau, cycle, TVS 50, TV and glasses belonging to petitioner. A case was registered in Crime No.120 of 2001 on the file of first respondent. Upon completion of investigation and filing of charge sheet informing commission of offences u/s.147, 148, 427, 448, 326, 324, 323 and 506(ii) IPC, the case was taken on file in C.C.No.49 of 2006 on the file of learned Chief Judicial Magistrate, Krishnagiri.

3. Trial Court has framed charges as follows:

<i>Accused</i>	<i>Sections of law</i>
A1	148, 448, 427 and 326 IPC
A2	148, 448, 427, 324(2 counts), 341 and 506(ii) IPC
A3	148, 448, 427, 324(2 counts), 341 and 506(ii) IPC
A4	148, 448, 427, 324(2 counts), 341 and 506(ii) IPC
A5	148, 448, 427 and 323(5 counts)IPC
A6	148, 448 and 427 IPC

Before trial Court, prosecution examined 13 witnesses and marked 12 exhibits and 10 material objects. None were examined on the side of defence, however, one exhibit was marked. On questioning u/s.313 Cr.P.C., accused denied charges. On appreciation of materials before it, trial Court, under judgment dated 05.10.2010, rendered a finding of acquittal. Against such finding, the present revision has been filed.

4. Heard learned counsel for petitioner, learned Additional Public Prosecutor for first respondent learned counsel for respondents 2 to 7.

5. In acquitting respondents 2 to 7, trial Court has found that though PWs.1 to 5 have sustained injuries in the alleged occurrence as also accused 1 and 2, there was no proper explanation how both parties sustained injuries. There were several contradictions in the evidence of prosecution witnesses. While it was the case of prosecution witnesses that persons belonging to their

village have witnessed the occurrence, not even one witness belonging to the village has been examined. Further, it was found that only PWs.1 and 3 took treatment at the hospital on the date of occurrence and PWs.2, 4 and 5 took treatment on the next day. The explanation offered by PW-4 that since they have scared of accused they went to their grandfather's house and hence, they have not gone to hospital on the date of occurrence has not found acceptance at the hands of trial Court. Though the evidence of PWs.1 to 5 and PW-12, Doctor have clearly revealed that PWs.1 to 5 sustained injuries, there were too many discrepancies in their evidences. While PW-1 himself has admitted in cross-examination that he did not know what was written in Ex.P1, complaint, the very complaint was doubtful and failure on the part of prosecution to examine the Head Constable who recorded the complaint was fatal to the prosecution case. There was no explanation on the side of prosecution for non-examination of such Head Constable. Ex.P11, First Information Report, did not contain 'serial number' and there was no proper explanation and hence, the same was doubtful. Further, PW-13, Sub-Inspector of Police, who registered the case himself has conducted investigation and filed final report. Having received intimation from PW-12, Doctor, and wound certificate informing five cut injuries and five other injuries suffered by first accused, no case was registered by police. Trial Court has held that though there were more number of injured witnesses, their evidence could not be accepted since prosecution has

suppressed the origin of occurrence and injuries sustained by first accused. Trial Court has further held that the prosecution case bristles from several infirmities, viz., a doubtful document viz., Ex.P1 - complaint, Ex.P11 - First Information Report without serial number, non-examination of Head Constable who recorded the statement of PW-1, non-explanation of injuries suffered by first accused and contradictions in the evidence of PWs.1 to 5. On the above reasoning and for other reasons, trial Court has held that the prosecution has failed to prove its case beyond reasonable doubt and hence, the accused were entitled to benefit of doubt. This Court finds that a well-reasoned approach has been adopted by trial Court in acquitting the accused.

The Criminal Revision Case shall stand dismissed.

02.08.2017

Index:yes/no
Internet:yes/no
gm

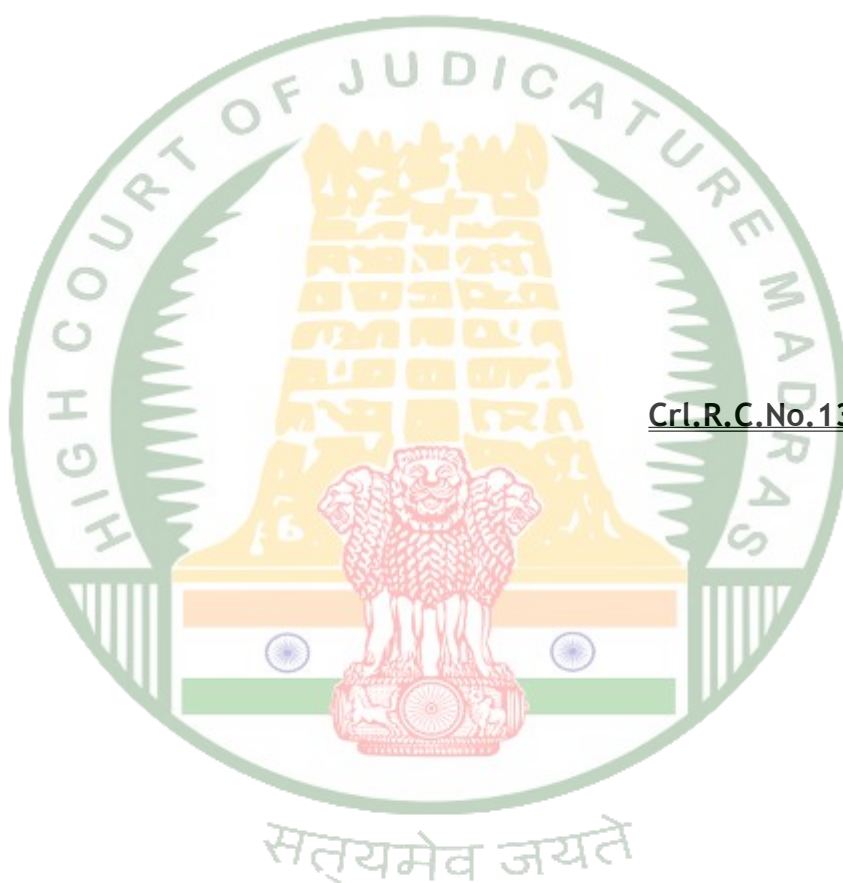
To

1.The Chief Judicial Magistrate,
Krishnagiri.

2.The Sub-Inspector of Police,
Kaveripattinam Police Station,
Krishnagiri District.

3.The Public Prosecutor,
High Court, Madras.

C.T. SELVAM, J



CrI.R.C.No.1323 of 2010

WEB COPY

02.08.2017