

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.01.2017

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THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Criminal Revision Case No.904 of 2010

D.Ravichandran ... Petitioner/Appellant/Accused

Versus

State by

The Sub Inspector of Police,

D-2, Anna Salai Police Station,

Chennai.

... Respondent/Respondent/Complainant

Revision Petition filed under Section 397 read with 401 of Cr.P.C., against the Judgment made in C.A.No.214 of 2009, dated 29.06.2010 on the file of III Additional Sessions Judge, Chennai confirming the conviction and sentence passed in Judgment dated 26.10.2009 in CC No.663 of 2007 on the file of XIII Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.K.Nirmalkumar

For Respondent : Mr. Rameshbabu,

Government Advocate (Crl. Side)

ORDER

Challenging the conviction and sentence passed in C.A.No.214 of 2009, the petitioner/accused filed the present revision petition.

2. Petitioner is the sole accused in CC No.663 of 2007, on the file of XIII, Metropolitan Magistrate, Egmore, Chennai, charged for an offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998. The trial Court convicted the accused and sentenced him to undergo six months rigorous imprisonment. Challenging the above conviction and sentence, the petitioner filed an appeal in C.A.No.214 of 2009, on the file of III Additional Sessions Judge, Sessions Court, Chennai. The appellate Court by its judgment dated 29.06.2010, dismissed the Appeal and confirmed the conviction and sentence passed by the trial court. Challenging the same, the present revision has been filed.

3. The brief case of the prosecution is as follows :-

PW1 is working as an Assistant in Thiruvateeswarar Janopakara Nidhi Limited. On 29.05.2006 at about 03.00 p.m., the petitioner/accused, who was also working as Peon in the same company, abused PW1 and PW2 and immediately PW1 and PW2 informed about the incident to their Chief Executive Officer, PW3. PW3 asked them to give a written complaint. Thereafter, after 10 days, the written complaint was given to PW3, after considering the complaint and obtaining necessary permission from the Managing Director, PW4, they have filed the complaint before the respondent police on 22.06.2006. Since, no action was taken, once again PW1 had given another complaint before the respondent on 31.07.2006 and based on the above complaint, PW8, the Sub-Inspector of Police in the respondent police station registered a case in Crime No.1554 of 2006 for an offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act 1998. Then, PW8 went to the scene of occurrence recorded the statement of complainant, and prepared a rough sketch. She also recorded the statement of other witnesses and after completion of the investigation, a charge sheet has been filed on 05.02.2007.

4. Considering the above material, the trial Court framed a charge against the petitioner under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act 1998 and the accused denied the charge.

5. In order to prove the guilt against the petitioner, the prosecution examined as many as 8 witnesses and marked 4 documents as exhibits. Out of the witnesses examined, PW1, is the complainant and the victim. According to her, on the date of occurrence, the petitioner accused scolded her with abusive words in the office premises, in the presence of other employees and customers. Immediately, she informed the same to PW3, the Chief Executive Officer and he requested her to give a written complaint. Then after consulting with her husband, she has given the complaint to PW3, then she has given a complaint to the respondent police. PW2 is another women, working in the same company. According to PW2, on the said date of occurrence at about 3.00 p.m., the accused scolded all the women in the office by using abusive words and immediately they have informed the same to the Chief Executive Officer, PW3. PW3, in turn asked them to give a written complaint. After consulting with their husband they have given a complaint and after obtaining permission from the Managing Director, PW4, they have given the complaint to the respondent police. PW4 is the Managing Director of the company and according to him, the complaint of PW1 and PW2 were placed before the Directors meeting, thereafter, they have given a complaint to the respondent police. PW5 is the Co-employee of PW1. According to them, on the date of occurrence, the accused used abusive words against

PW1 and PW2. PW6 and 7 are the Co-employees in the same company. According to them, they only saw the quarrel between PW1 and the accused. PW8 is the Sub Inspector of Police, who has conducted the investigation and filed a charge sheet.

6. When the above incriminating materials were put to the accused, he denied the same. The accused in order to prove his case examined himself as DW1 and marked 16 documents as exhibits.

7. Considering the facts and circumstances of the case, the trial Court convicted the accused/petitioner to undergo six months rigorous imprisonment. Challenging the above said conviction and sentence, the petitioner has filed an appeal in C.A.No.214 of 2009, on the file of the Additional Sessions Judge, Chennai and the appellate Court dismissed the appeal thereby confirming the conviction and sentence passed by the trial Court. Challenging the above said conviction and sentence, the present revision has been filed by the petitioner before this Court.

8. I heard the submissions of Mr.K.Nirmalkumar, learned counsel for the petitioner and Mr.Ramesh Babu, learned Government Advocate for the respondent.

9. The learned counsel for the petitioner contended that there is an enormous delay of two months, in lodging the complaint, submits that even though the incident occurred on 29.05.2006 at about 03.00 p.m., the complaint was given only on 31.07.2006, which is more than two months from the date of occurrence and the delay in lodging the complaint was not explained by the prosecution. Whereas, the learned Government Advocate appearing for the respondent stated that even though there is delay of two months, the delay has been properly explained by PW1 to PW4.

10. I have considered the rival submissions and perused the records.

11. So far as the delay in filing the complaint is concerned, the occurrence took place on 29.05.2006 at about 03.00 p.m. and PW1 and PW2 have reported the same to PW3, and PW3 asked them to give a written complaint, but they did not do so and they have given only after 10 days. Thereafter, the above complaint, about the harassment of PW1 and PW2 was placed in Board Meeting and then a complaint was stated to have been given to the respondent police on 22.06.2006, but the said complaint was not marked here. PW8 is the Sub-Inspector of Police, in the cross-examination has stated that the complaint was received by them only on 31.07.2006, which is more than two

months, from the date of occurrence. But, there is no proper explanation on the part of the prosecution for the delay of two months and the earlier complaint said to have given by PW3 and PW4 was suppressed by the prosecution as PW3 and PW4 categorically stated that after obtaining permission from the Board of Directors, they have given a complaint before the respondent. Apart from that even as per the evidence of PW1 and PW2, there are number of employees and customers were present at the time of occurrence in the company, except PW5, another co-employee nobody is supporting the case of prosecution. Even though number of customers were said to have present at the time of occurrence in the office none was examined by the police, hence in absence of any independent witness to corroborate the PW1, PW2 and PW5 who are interested witnesses, it is highly unsafe to rely upon their evidence to convict the petitioner.

12. In the above circumstances, I am of the considered view that the prosecution has failed to prove the case beyond any reasonable doubt. Accordingly, the petitioner is entitled for acquittal.

13. In the result, this criminal revision case is allowed and the conviction and sentence passed by the learned XIII Metropolitan Magistrate, Egmore, Chennai in C.C.No.663 of 2007 confirmed by the III Additional Sessions Judge, Chennai in C.A.No.214 of 2009, dated 29.06.2010 is hereby set aside. Petitioner is acquitted. Bail bond, if any executed by him shall stands cancelled.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To :

1. The Sub Inspector of Police,
D-2, Anna Salai Police Station,
Chennai.
2. The III Additional Sessions Judge, Chennai
-do thro The Prl. Sessions Judge, Chennai

3. The XIII Metropolitan Magistrate, Egmore, Chennai.

4 The Superintendent,
Central Prison, Puzhal, Chennai

5 The Chief Metropolitan Magistrate,
Egmore, Chennai (for information)

6. The Public Prosecutor,
High Court, Madras - 104.

+1cc to Mr.K. Nirmal Kumar, Advocate, S.R.No.1319

nmi(CO)
md(16/02/2017)

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