

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2017

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

CRL.R.C.No.1596 of 2013

Poongavanam

... Petitioner

Vs.

1. State by
Sub-Inspector of Police,
Tirupattur Taluk Police Station,
Vellore District.
(Crime No.1122 of 2006)

2. Sivaprakesam.

3. Mohana

... Respondents

Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure Code to set aside the judgment in C.C.No.425 of 2006 passed by the learned Judicial Magistrate-II, Tirupattur, Vellore, dated 08.12.2008.

For Petitioner : Mr. Alandavid Rufus,
for
Mr. V.krishnamoorthy

For respondents : Mr.V.Arul,
Additional Public Prosecutor,for

R1

R2 & 3 - No Appearance

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O R D E R

Challenging the order of acquittal passed by the Judicial Magistrate No.II, Tirupattur, Vellore District, in C.C.No.425/2006 dated 08.12.2008, the present revision has been filed by the defacto-complainant/P.W.2.

2. The respondents 2 and 3/A1 & A2 stood charged for the offences under sections 323 and 325 IPC. The trial Court,

after elaborate trial acquitted the accused from both the charges. Challenging the same, the present revision has been filed.

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

P.W.2 is an injured witness. P.Ws.1 and 2 and respondents 2 and 3/A1 & A2 are closely related. Already a civil dispute was existing between them regarding a house site, in the above circumstances, on 20.10.2006, at about 8.30 a.m., A1 threw a brick on the nose of P.W.2 and also attacked her with wooden log and caused minor injuries, and A2 also threw a brick on P.W.2 and caused injuries on her right leg. P.W.2 was admitted in the Government Hospital, Tirupatthur. Then, a complaint was lodged by the petitioners and based on the complaint, a crime has been registered for the offences under Sections 323 and 325 IPC by the first respondent police.

4. P.W.8, Head Constable, attached to the respondent police, on receipt of the intimation, went to the Government Hospital, Thirupathur, recorded the statement of the petitioner/P.W.2. P.W.9, Sub-Inspector of Police, registered a case in Crime No.1122/2006. Thereafter, she proceeded to the scene of occurrence and prepared Observation Mahazar (Ex.P.4) and drew a Rough Sketch (Ex.P.5) in the presence of the witnesses, recorded the statement of the doctor, who treated the injured in the hospital. After completing investigation, she laid charge sheet against the accused.

5. Based on the above materials, the trial Court framed the charges as detailed in the first paragraph of this judgment against the accused. The accused denied the same. In order to prove the case of the prosecution, as many as 9 witnesses were examined and 5 documents were exhibited.

6. Out of the witnesses examined, P.W.1 is the mother of P.W.2 and P.W.2 is the injured witness. According to them, there was a civil dispute between the petitioner and the accused, and on the date of occurrence, due to the previous enmity, A1 and A2 attacked P.W.2 with brick and caused injuries. P.W.3 is a neighbour. He is only a hearsay witness and P.Ws.4 and 5 turned hostile. P.W.6 is the uncle of P.W.2. He is also an eye-witness to the occurrence and he took P.W.2 to the hospital for treatment. P.W.7, Doctor, who examined P.W.2, had given an Accident Register (Ex.P.2) stating that injuries are simple in nature.

7. P.W.8, Head Constable, on receipt of the intimation from the hospital, went to the hospital and recorded the statement of P.W.2 in the hospital and based on the said

statement, he registered CSR. P.W.9 is the Sub-Inspector of Police, who registered a case in Crime No.1122 of 2006 for the offences under Sections 323 and 325 IPC. She has conducted investigation and after completion of investigation, she laid the charge sheet.

8. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., they denied the same as false. However, they did not choose to examine any of the witnesses or mark any documents on their side.

9. Considering all the above materials and evidences, the trial Court acquitted both the accused on the ground that there are lot of contradictions in the evidence of P.W.2 and P.W.6 and also place of occurrence is also not proved by the prosecution. Now, challenging the order of acquittal, the injured witness/P.W.2 is before this Court with this revision.

10. I have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent/State.

11. Even though notice was served on the respondents 2 and 3, no one appeared on behalf of them.

12. The learned counsel appearing for the petitioner would submit that P.W.2 is the injured witness and P.Ws.1 and 6, who are the eye-witnesses to the occurrence. They have consistently stated that it is only A1 and A2, who threw brick and caused injuries on P.W.2 and the medical evidence also corroborates the evidence of the injured witness and First Information Report is also given in time and without considering all the materials, the trial Court acquitted the accused pointing out some minor contradictions.

13. I have considered the submissions and perused the materials available on records carefully.

14. P.W.2 is the injured witness. P.W.1 is the mother of P.W.2. According to their evidence while they were standing in their house and questioning A1 regarding the civil dispute, A1 and A2, threw stones from their house and caused injuries to P.W.2. P.W.6, another eye-witness, stated that the occurrence took place in the house of A1 when P.W.2 questioned them. From the above contradictions, it is clear that the prosecution did not prove the place of occurrence and the evidence of P.W.1 was also corroborated by the medical evidence. Considering the above materials, the trial Court rightly acquitted the accused

15. It is settled principal of law that in an order of

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.

16. In the above circumstances, I find no illegality or irregularity in the judgment of the trial court. Hence, this revision is liable to be dismissed.

17. In the result, the criminal revision case is dismissed and the judgment of the court below is confirmed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Judicial Magistrate No.II,
Thiruppathur, Vellore
2. The Public Prosecutor,
High Court, Madras.

Cr1.R.C.No.1596 of 2013

RSK(CO)
CS/07/06/18

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