

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.09.2017
CORAM
THE HONOURABLE MR.JUSTICE C.T.SELVAM
Crl.R.C.No.1600 of 2013

Periyasamy
S/o.Munian

... Petitioner

vs

1.Ramakrishnan
S/o.Samiyappa

2.Gopal @ Gopalakrishnan
S/o.Raju

3.Samidurai
S/o.Kaliyamoorthy

4.Ramana @ Ramarasu
S/o.Periyasamy

5.The Deputy Superintendent of Police,
Perambalur Sub Division,
Perambalur District.

... Respondents

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, against the judgment of learned Principal District and Sessions Judge, Perambalur, passed in Spl.S.C.No.25 of 2006 on 29.08.2007.

For Petitioner : Mr.R.Sunil Kumar

For Respondent : R1- Expired

No appearance [R2 to R4]

Mr.V.Arul,

Additional Public Prosecutor [R5]

सत्यमेव जयते

O R D E R

This revision arises against the judgment of learned Principal District and Sessions Judge, Perambalur, passed in Spl.S.C.No.25 of 2006 on 29.08.2007.

2. Prosecution case is that on 22.11.20004 at about 09.00 a.m., owing to previous enmity regards construction of middle school at Kalai Village, first accused wrongfully restrained PW-1, second accused assaulted him using chappals, third accused issued life threats and fourth accused threatened that he would

pour kerosene on him. The further accusation is that all accused called him by his caste name and accused 1 and 2 forced PW-1 to sign a blank paper. A case in Crime No.148 of 2005 on the file of Kunnam Police Station was registered. During investigation, A3 died. Upon completion of investigation, a charge sheet was filed informing commission of offences u/s.147, 506(ii) IPC and 3(i)(x) of the SC/ST Act against A1, A2, A4 and A5, 341 IPC against A1 and 355 IPC against A2. The case was tried in Spl.S.C.No.25 of 2006 on the file of learned Principal District and Sessions Judge, Perambalur.

3. Before trial Court, prosecution examined 15 witnesses and marked 10 exhibits. None were examined on behalf of defence nor were any exhibits marked. On appreciation of materials before it, trial Court, under judgment dated 29.08.2007, acquitted the accused. There against, the present revision has been filed.

4. Heard learned counsel for petitioner and learned Additional Public Prosecutor for State.

5. In acquitting respondents 1 to 4, Court below has found as follows:

- (i) In Ex.P1, complaint, PW-1 has not mentioned the place and time of occurrence. However, in his evidence, PW-1 has stated that the occurrence took place on 22.11.2004 at about 09.00 a.m. near the place where construction was going on and that all 5 accused were present. In the complaint, it was alleged that PW-6 brought gravel to the place of occurrence as per instructions of A1. PW-6 has deposed of having no knowledge regards the dispute between PW-1 and accused, that he brought gravel as per in the instructions of A1 and at that time there was no quarrel between A1 and PW-1. Though PW-1, in cross, has deposed that there was a partition dispute between him and his brother and it was settled by A1 while he was acting as President of the Village and that A1 has acted in favour of his brother, neither in the complaint nor in 161(3) Cr.P.C. statement, PW-1 has stated about such incident.
- (ii) PW-1, in cross, admitted that he is an illiterate and he has only affixed his signature in Ex.P1, complaint. In such circumstances, there should have been an endorsement in the complaint by police official, who recorded the same that the complaint was read over to PW-1 and he has full knowledge of the contents in the complaint. In the instant case, such endorsement was not found in Ex.P1, complaint and hence, the origin of Ex.P1, complaint, itself was doubtful.

(iii) Though PW-1 has stated that A3 assaulted him using chappals and A5 tore his shirt and damaged a machine with knife, neither the slippers nor the shirt or the damaged part of machine was recovered.

(iv) PW-3, an alleged eye witness to the occurrence, deposed that he was waiting in the bus stop at 09.00 a.m., that the occurrence took place in the bus stop and that there was no bus facility till 11.00 a.m. However, in 161(3) Cr.P.C. statement, PWs.2 and 3 stated that they have no knowledge of the occurrence which took place on 23.11.2004. There were contradictions between the statement of PW-3 and his evidence. Likewise there were contradictions between 161(3) Cr.P.C statements and evidence of PWs.4, 5, 9 and 12.

(v) Though it was the prosecution case that PW-1 visited the place of occurrence in a JCB vehicle, the driver of such vehicle has not been examined and no materials have been recovered.

(vi) There was no explanation for the delay of four days in Ex.P7, FIR dated 08.04.2005 reaching the Court. Likewise the statements of witnesses recorded on 08.04.2005 have been sent to Court only on 22.09.2005.

(vii) PW-13, Doctor, who treated PW-1, has deposed that the injuries were simple in nature and PW-1 was treated as out-patient. Further, there was no material to show that the injuries were caused by accused.

For the aforesaid reasons and for other reasons, trial Court found that the prosecution has failed to prove its case beyond all reasonable doubt and accordingly, rendered a finding of acquittal. This Court finds that a well-reasoned approach has been adopted by trial Court in arriving at a finding of acquittal.

The Criminal Revision Case shall stand dismissed.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

gm

To

- 1.The Principal District and Sessions Judge,
Perambalur.
- 2.The Deputy Superintendent of Police,
Perambalur Sub Division,
Perambalur District.
- 3.The Public Prosecutor,
High Court, Madras.

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