

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2017

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THE HONOURABLE MR.JUSTICE C.T.SELVAM

Criminal Appeal No.923 of 2006

1. Ramakrishnan
S/o.Perumal
 2. Subramanian
S/o.Perumal
- ... Appellants/Accused 2 & 3

Vs.

1. State by Inspector of Police
Pennadam Police Station
Cuddalore District.
(Crime No.138/1997)
 2. Ramalingam
S/o.Thiyagarajan
- ... Respondents

(*R2 impleaded as per the order of this Court dated 27.07.2017 made in Crl.A.No.923 of 2006)

Criminal Appeal preferred under Section 374(2) of Cr.P.C., against the judgment dated 29.12.2005 in C.C.No.158 of 1999 on the file of the Additional District Judge (Fast Track Court No.III), Virudhachalam.

For Appellant : Mr.P.Palaninathan
for Mr.C.D.Johnson

For Respondents : Mr.V.Arul
Additional Public Prosecutor
for R1
R2 - Notice served
No appearance

J U D G M E N T

This Criminal Appeal arises against the judgement dated 29.12.2005 in C.C.No.158 of 1999 on the file of the learned Additional District Judge (Fast Track Court No.III), Virudhachalam.

2. Prosecution case is that on 11.04.1997 when the second respondent/complainant attempted to pluck fruits of a Palmyra tree, the appellants along with other accused persons, picked up quarrel with him and thereafter second respondent/complainant went home. On the same day at around



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8.00.p.m., accused persons came to the second respondent/complainant's house armed with iron rod and sticks and abused him in obscene language. When he protested, they assaulted him and his family members with iron rod and sticks and took away 5 sovereigns of golden ornaments and Rs.3,000/- cash from the house and also damaged household articles. A complaint was lodged by second respondent and case in Crime No.138 of 1997 was registered for offences under Sections 324, 323, 446, 379 IPC. The prosecution party went to Tittagudi Government Hospital for treatment. First accused had also lodged complaint with Pennadam Police Station and a case was registered in Crime No.137 of 1997 for offences under Sections 147, 148, 324, 323 and 307 IPC and alleging that complaint in Crime No.138 of 1997 preferred by him was not duly investigated, second respondent preferred complaint tried in C.C.No.158 of 1999 on the file learned Additional District Judge, Fast Track Court-III, Vridhachalam.

3. Before the trial Court, prosecution examined PWs.1 to 7 and marked Exs.P1 to P5. None were examined on behalf of the defence nor were any exhibits marked. On questioning u/s.313 Cr.P.C., the accused denied charges. Learned trial Judge, on appreciation of the evidence, under judgement dated 29.12.2005, while acquitting A1 and discharging A4, convicted appellants/accused 2 and 3 for offences u/s.324 IPC and sentenced each of them to pay fine of Rs.1,000/- i/d 3 months R.I. for offence u/s.324 IPC. There against, the present appeal.

4. Heard learned counsel for appellants and learned Additional Public Prosecutor for first respondent. Though notice has been served on the second respondent/complainant, none appears on behalf of the second respondent.

5. Learned counsel for appellants submitted that the complaint has been preferred appellants as a counter-blast to prosecution for offences under Section 307 IPC being faced by PWs-1 to 4 in respect of an occurrence on the same day at 5.00.p.m. PWs-1 to 4 are immediate family members, Pws-2, 1 and 3 being mother, son and daughter and PW-4 being the wife of PW-1. The falsity of the complainant's case is laid bare in that of PWs-1 to 4 uniformly inform the presence of the first appellant in the occurrence alleged to have taken place at 8.00.p.m. In case tried in S.C.No.25 of 2001 on the file of the learned Additional District Judge, Fast Track Court-III, Virudhachalam, the said Court, under judgement dated 28.11.2003, had found PWs-1 to 4 guilty of offences under Sections 323, 324, 325, 307, 354, 147, 148, 307 r/w 149 IPC and the fact of A1 having suffered multiple injuries and having been carried on a cot before being boarded on to a bus was accepted. Therefore, it is apparent that complaint's case is false.

6. Heard learned Additional Public Prosecutor on the above submission.

7. Regarding an occurrence at 5.00.p.m. on the same day, PWs-1



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to 4 and also 4 others were tried and convicted in S.C.No.25 of 2001 on the file of learned Additional District Judge, Fast Track Court-III, Vridhachalam. The testimony of PWs-1 to 4 informing the presence of the first accused, who suffered multiple injuries in such incident and who could not have been present at the scene of occurrence at 8.00.p.m., reveals the falsity of the second respondent/complainant's case. The finding of the police agency informing the case to be a mistake of fact only affirms such position.

8. The Criminal Appeal shall stand allowed. The conviction and sentence passed by learned Additional District Judge, F.T.C.No.III, Vridhachalam, in C.C.No.158 of 1999 on 29.12.2005, is set aside and appellants are acquitted of all charges. Fine amount, if any, paid shall be refunded Bail bond(s), if any, executed shall stand cancelled.

-sd/-

Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

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To

1 The District Munsif-cu- Judicial Magistrate,
Tittangudi

2. The Additional District Judge,
Fast Track Court-III,
Virudhachalam.

3. The Inspector of Police,
Pennadam Police Station,
Cuddalore District.

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

+1 cc yo Mr.A.Amarnath Advocate SR.NO. 60649

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RD 13/11/2017