



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 02.08.2017

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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C(MD).No.301 of 2017

Saraswathi ... Appellant/P.W.1/Defacto
complainant
-Vs-

1.The State, represented by
The Deputy Superintendent of Police,
Puliyangudi Sub-Division,
Puliyangudi,
Vasudevanallur Police Station,
(Crime No.30 of 2013) ...Ist Respondent/Respondent/
Complainant

2.Sorimuthu ...Second Respondent/Sole
Accused/Sole Accused.

Prayer : Criminal Revision Case filed under Section 397 r/w 401 and 482 of the Code of Criminal Procedure, praying this Court to call for the records of the case in S.C.No.72 of 2013 on the file of II Additional District and Sessions Court, Tirunelveli and to set aside the judgement dated 29.2.2016 by allowing the appeal and convicting the accused under Sections 294(b), 379 IPC and Section 3(1)V) and 3(1)(X) of SC/ST(POA) Act, 1989.

For Petitioner : M/s.M.Sathiamoorthy
For Respondent-1 : Mr.C.Mayilvahana Rajendran
Additional Public Prosecutor (Crl. Side)
For Respondent-2 : Mr.Navaneetha Raja

O R D E R

Challenging the order of acquittal, the present revision has been filed.

2.The appellant is the de-facto complainant in S.C.No.72 of 2013, on the file of II Additional District and Sessions Judge, Tirunelveli. Earlier, the appellant has given a complaint against the second respondent alleging that he has purchased the property measuring an extent of one acre of land in the year 2002 from one Gurusamy and he has been in possession and enjoyment of the same. The second respondent/accused is interfered with his possession and enjoyment and has also filed a civil suit in O.S.No.7 of 2009, on the file of District Munsif cum Judicial Magistrate, Sivagiri



and the same was decreed in his favour. On 27.6.2012, when the defacto complaint was standing in the agricultural land, the accused went there and abused her in filthy language and insulted her by calling her by the caste name. Then the accused has harvested the standing crops, worth about Rs.42,000/-. Hence the de-facto complaint has given a complaint.

3. Based on the complaint, a case has been registered under Section 294(b), 379 IPC and Section 3(1)(V) and 3(1)(X) of SC/ST (POA) Act. After investigation, final report has been filed by the respondent Police for the offence under Section 294(b), 379 IPC and Section 3(1)(V) and 3(1)(X) of SC/ST(POA) Act. After trial, the Trial Court acquitted the accused. Challenging the same, the present appeal has been filed.

4. Heard Mr.M.Sathiamoorthy, learned counsel for the appellant and Mr.C.Mayilvahan Rajendran, learned Additional Public Prosecutor appearing for the respondent state and perused the records carefully.

5. The case of the Petitioner is that she is the owner of the property by virtue of sale deed of the year 2002 and the second respondent is claiming right over the property interfered with her peaceful possession, and also harvested the crops standing in the filed of the de-facto complainant, and abused the de-facto complaint calling her caste name, hence he has committed the offence.

6. Perusal of the records would show that the second respondent/accused said to have purchased the property from one Thiruvavaduthurai Atheenam, who is the owner of the property. It is also admitted by the de-facto complainant in the cross-examination and he is in enjoyment of the property. The second respondent subsequently filed O.S.No.7 of 2009, on the file of the learned District Munsif-cum-Judicial Magistrate, Sivagiri for permanent injunction and the suit is decreed in his favour on 8.6.2015. Even though an appeal is pending, there is no order of stay. Apart from that there is also delay of 6 months in filing the complaint, which was also not explained by the prosecution. Considering all the above materials, the trial Court has acquitted the second respondent/accused. I have carefully considered the entire materials and find no illegality or irregularity in the judgement of the Court below. Thus the revision fails.

7. Accordingly, the Criminal Appeal is dismissed.

Sd/-

Assistant Registrar(Cr1.Side)



To

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1.The IInd Additional District and Sessions Judge,
Tirunelveli.

2.Do through the Principal Sessions Judge,
Tirunelveli

3.The Deputy Superintendent of Police,
Puliyangudi Sub-Division,
Puliyangudi,
Vasudevanallur Police Station.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+One cc to Mr.M.Sathiamoorthy, Advocate, SR.No.69933

+One cc to M/s.S.M.A.Jinnah, Advocate, SR.No.69950

vsn

RL/7C/3P/KKR/SAR2/16/8/2017

Cr1.A(MD) No.301 of 2017

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