

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 24.11.2018

CORAM
THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

Crl.A.No.939 of 2005

1.Vikkiramasingh
2.Soundarajan
3.Srinivasan

.. Appellants

Vs.

The Sub-Inspector of Police,
Vikramangalam Police Station,
Ariyalur Taluk,
Perambalur District.
(Crime No.330/03)

.. Respondent

Prayer:-

This Criminal Appeal is filed under Section 374 of Cr.P.C., against the Judgment of conviction and sentence made in Special Sessions Case No.111 of 2004, on the file of the learned Sessions Judge, Perambalur, dated 28.10.2005.

For Appellants : Mr.D.Ashok Kumar

For Respondent : Ms.S.Thankira
Government Advocate (Criminal Side)

JUDGMENT

This appeal is directed against judgment of learned Sessions Judge, Perambalur, Chennai, passed in Special Sessions Case No.111 of 2004, dated 28.10.2005.

2. The case of the prosecution is that P.W.1-Muthusami had borrowed a loan of Rs.700/- from the third accused and due to his non payment of the loan amount, on 12.10.2003, at 9 p.m., all the accused 1 to 3 came to the colony street and forcibly took P.W.1 to the house of the third accused, where A1 threatened P.W.1 with dire consequences and also insulted him by calling his caste name. The second and third accused caused simple injury and also wrongfully restrained him.

3. It is represented by Mr.D.Ashok Kumar, learned counsel for the appellants that the third accused had passed away on 10.12.2007. The learned Government Advocate while agreeing with the statement, produced his death certificate and the same is taken on file.

4. Heard both sides and perused the materials available on record.

5. In this case, P.W.1 is the victim. According to P.W.1, he received Rs.700/- from the third accused and he paid interest for the loan. He was working as coolie at Madras and the third accused came to Madras, demanding repayment of the loan. On the date of occurrence, P.W.1 came to his Village and at about 09.00 p.m., the accused 1 and 2 came to his house and demanded money. At that time, the second accused assaulted him by calling his caste name, however, he was rescued by his sister and neighbour. Thereafter, the accused 1 and 2 brought P.W.1 to the house of the third accused, where A-1 threatened in the name of his caste.

6. P.W.2 is the mother and P.W.4 is the sister of P.W.1. P.W.3, who is said to be an independent witness was also present in the scene of occurrence. A perusal of the evidence of P.W.2 and P.W.3, they have not spoken anything to attract the offence under Section 3(1)(x) of S.C./S.T.Act. P.W.4 stated that on the date of occurrence, accused 1 and 2 came to the house of P.W.1 and assaulted him, calling his caste name and took him to the house of third accused. When she intervened, she was abused by the accused 1 and 2.

7. The close scrutiny of evidence of P.W.1 to P.W.4 would show that there are material contradiction with regard to the usage of the word to attract the offence of 3(1)(x) of S.C./S.T.Act. P.W.1 has categorically stated that the second accused insulted him by calling his caste name, but P.W.4 stated that both the accused 1 and 2 have assaulted P.W.1 and abused in the name of their caste. P.Ws' 2 and 3 are totally silent about the abuse of words said to have been used by the accused, however, they have cogently deposed that the accused 1 and 2 have taken P.W.1 to the house of P.W.3 by force and attacked him. The evidence of P.W.7 and Ex.P3 Accident Register, corroborate the evidence of P.Ws' 1 to 4. Hence, the appellants 1 and 2 are acquitted from the charges under Section 3(1)(x) of S.C./S.T.Act.

8. The complainant Muthusamy P.W.1 and the accused 1 and 2 are present before this Court and they have stated that differences between them have been settled and they are living peacefully and harmoniously in their village. It is represented by the learned counsel for the appellants that the entire fine amount of Rs.2,000/- was paid and the accused had already undergone substantial sentence and prays for leniency.

9. In the light of the above facts, this Court while acquitting appellants 1 and 2 for offence under Section 3(1)(x) of S.C./S.T.Act, confirms the finding of conviction in respect

of other offences. However, this Court considers it appropriate to reduce the sentence to the period already undergone. Accordingly, the substantial sentence is reduced to period already undergone. Bail bond, if any, executed shall stand cancelled.

10. The Criminal Appeal is partly allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Sub-Inspector of Police,
Vikramangalam Police Station,
Ariyalur Taluk,
Perambalur District.
- 2.The Sessions Judge,
Perambalur.
- 3.The Judicial Magistrate Court,
Ariyalur.
- 4.The Director General of Police,
Mylapore, Chennai -4.
- 5.The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.D.Ashok kumar, Advocate, S.R.No.8023

Copy To:

The Section Officer/ Record Clerk,
Criminal Section,
High Court, Madras.

CrI.A.No.939 of 2005

RSK(CO)

rrs 25/01/2019