

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.1537 of 2013

Radamani

...Petitioner/Defacto Complainant

Vs.

1. State by

The Sub Inspector of Police,
Velli Thiruppur Police Station,
Erode District.

.... Ist Respondent/Complainant

2. Karunanithi

3. Trusayammal

...Respondents 2 & 3/Accused

Prayer: This Criminal Revision filed under Section 397 and 401 of Code of Criminal Procedure to call for the records and to set aside the judgment of acquittal dated 03.01.2008 passed by the learned Judicial Magistrate, Bhavani, in C.C.No.598 of 2004.

For Petitioner : Mr. V.Krishnamoorthy

For Respondents : Mr.R.Ravichandran,
Govt. Advocate (Crl.Side) for R1

ORDER

This Criminal Revision has been filed seeking to set aside the judgment of acquittal dated 03.01.2008 passed by the learned Judicial Magistrate, Bhavani, in C.C.No.598 of 2004.

2 The case of the prosecution is that on 26.09.2004 at about 8.00 am, 2nd respondent/A1 was ploughing the field with tractor. At that time, P.W.1, who is wife of P.W.2, sister-in-law of the second respondent/A1 and daughter-in-law of third respondent/A2, prevented the second respondent from ploughing the field. Therefore, 2nd respondent hit her backside by the tractor, which caused injuries to P.W.1. 3rd respondent scolded P.W.1 and stated that she will kill her and hit her back. Hence, she went to police station along with her son and lodged a complaint against the respondents 2 & 3/A1 & A2 and a case has been registered in Cr.No.271 of 2004 for the offences punishable

under Sections 324 and 506(ii) of IPC against the second respondent/A1 and 323 and 506 (ii) of IPC against the third respondent/A2. After investigation, the police had filed a final report before the learned Judicial Magistrate, Bhavani, which was taken on file in C.C.No.598 of 2004.

3 Before the trial Court, in order to prove the case of prosecution, P.W.1 to P.W.8 were examined and Ex.P1 to Ex.P6 were marked along with a material object i.e. the Tractor. On the side of the defence, no one was examined and no document was marked.

4 The learned Magistrate, after careful perusal of evidences, had come to the conclusion that P.W.1 is an aggressor and hence not found the respondents 2 & 3/A1 & A2 guilty. Therefore, acquitted both the accused by judgment dated 03.01.2008.

5 Aggrieved against the judgment of acquittal dated 03.01.2008, the defacto complainant/P.W.1 has preferred the present criminal revision before this Court.

6 The learned Counsel appearing for the petitioner would submit that P.W.1 is a defacto complainant and also the injured person. There was a civil dispute between the family of the defacto complainant and the accused with reference to the ancestral property and the case is pending before the Civil Court. During pendency of the civil case, the second respondent/A1 had plugged the land, which is in dispute. Hence, the petitioner prevented him from plugging the land and the respondents 2 & 3/A1 & A2 had caused injuries and threatened P.W.1 with dire consequences. P.W.1 had clearly spoken about the incident P.W.2 & P.W.3 had corroborated the same. P.W.4 & P.W.5, who are independent witnesses, had also corroborated the evidence of P.W.1. P.W.7, the Doctor, who treated P.W.1-injured witness, had spoken about the injuries and issued a wound certificate. The Court below instead of appreciating the documents produced by the prosecution, had come to the wrong conclusion that the petitioner is an aggressor and erroneously acquitted the respondents 2 & 3/A1 & A2, which warrants serious interference.

7 Heard the learned counsel appearing for petitioner and perused the materials available on record.

8 On a perusal of the records it reveals that there was civil dispute between the parties and they are close relatives. The petitioner is daughter-in-law of the third respondent/A2 and sister-in-law of the second respondent/A1. P.W.2 is husband of petitioner and son of the third respondent/A2 and brother of the

second respondent/A1. It is the evidence of P.W.1 that when the second respondent/A2 plugging the field, she went there and prevented him from plugging the land and the second respondent hit her backside by Tractor and caused injuries. P.W.2 & P.W.3, who are husband and son of P.W.1, were also present at the place of occurrence and their evidence also corroborated with evidence of P.W.1. P.W.1 herself admitted that she intercepted the Tractor by hand and hence the injuries sustained by her must have caused by her own action and not by the second respondent/A1. As far as the third respondent/A2 is concerned, there is no proof to show that the third respondent caused injuries to P.W.1 and there was no injuries. Further, prosecution also stated that when the second respondent plugging the land, P.W.1 went there and intercepted the Tractor by hand. Therefore the learned Magistrate had rightly given a finding that the petitioner is an aggressor. If the petitioner/P.W.1 had not intercepted the Tractor voluntarily, when her husband and son were also present, she might not have sustained injuries. If at all the respondents 2 & 3/A1 & A2 had hit P.W.1 by Tractor, P.W.2 and P.W.3 would have prevented the respondents 2 & 3, which was not happened and none of the witnesses had deposed so. Hence it is very clear that P.W.2-husband of the petitioner/P.W.1 is the sole and whole responsible for the litigation and he stimulated the petitioner to behave like this, in order to create fear in minds of the respondents 2 & 3, to prevent them from cultivating the land in dispute. Hence this Court does not find any perversity or infirmity in the judgment of acquittal dated 03.01.2008 passed by the learned Judicial Magistrate, Bhavani, in C.C.No.598 of 2004.

9 In the result, the criminal revision case is dismissed and judgment of acquittal passed by the Court below is hereby confirmed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

cgi

To

1. The Judicial Magistrate
Bhavani.

2. The Public Prosecutor
High Court of Madras.
3. The Section Officer,
Criminal Section, High Court, Madras-104

Cr1.R.C.1537 of 2013

nr 08/07/2019



WEB COPY