

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.02.2018

Coram

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRL.R.C.No.1722 of 2011

K.Pandidurai

... Petitioner

Vs.

The State

Inspector of Police

Karuveppalankurichi Police Station

Cuddalore District

(Crime No.14/2008)

... Respondent

PRAYER: This Criminal Revision Petition has been filed under Section 397 and 401 of Criminal Procedure Code to set aside the order dated 30.08.2011 by the Additional District and Sessions Judge, Fast Track Court III, Vriddhachalam in C.A.No.31/2010 modifying the Judgment dated 23.03.2011 on the file of the Judicial Magistrate Court II, Vriddhachalam in C.C.No.53/2008 and acquit the petitioner from all the charges.

For Petitioner : Mr.Vadivel Murugan
for Mr.S.Shankar
For Respondent : Mr.R.Ravichandran
Government Advocate

ORDER

This revision is filed as against the fine of Rs.1,000/- imposed by the First Appellate Court.

2.The revision petitioner, originally convicted under Section 326 I.P.C. by the Judicial Magistrate II, Vriddhachalam in C.C. No.53 of 2008 dated 23.3.2011 and sentenced six months rigorous imprisonment and imposed a fine of Rs.1,000/- in default, to undergo three months rigorous imprisonment. The First Appellate Court set aside the Trial Court judgment and found the revision petitioner guilty under Section 323 I.P.C. instead of Section 326 I.P.C. and imposed a fine of Rs.1,000/- as against which the present revision has been preferred.

3.Heard both the representing counsel for the revision petitioner and the public prosecutor.

4.The brief facts of the case is as follows:

The revision petitioner and the other accused A1 and A2 and

witnesses PW1 and PW3 are the residents of Kilimangalam village. Due to dispute over the ridges of the land on 25.02.2008, A1 abused the PW1 and A2 beat PW1 with a spade. A3 attacked PW1 with a sickle.

5. Thereafter, PW1 was referred to the hospital and PW9 examined her and issued Ex.P4, a xerox copy of the medical certificate. PW10 received the complaint from the injured, registered the crime, conducted investigation and framed a charge sheet.

6. The Learned Trial Court after an elaborate trial found the accused guilty under Section 326 I.P.C. However, the First Appellate Court taking into consideration of all the facts that the fracture has not been proved and the x-ray has not been produced by the prosecution held that offence under Section 326 I.P.C. and the same has not been established but found the revision petitioner guilty under Section 323 I.P.C.

7. On a perusal of the materials, this court does not find any perversity or infirmity in the judgment passed by the First Appellate Court. The Appellate Court had taken a lenient view by imposing only a fine of Rs.1,000/- for offence under Section 323 I.P.C. Though eyewitness account and medical evidence show the injuries on PW1, merely because the prosecution could not produce the X-ray, the Trial Court came to the conclusion and convicted the revision petitioner under Section 323 I.P.C. and also held the offence under Section 324 against the revision petitioner has not been proved. However, the First Appellate Court found the accused guilty under Section 323 of I.P.C.

7. On a perusal of C.A.No.31/2010, this court finds the First Appellate Court has convicted the accused under Section 323 I.P.C. instead of Section 324 I.P.C., as there is no appeal filed by the State, this court is of the view that the same cannot be disturbed. However, this court does not find any infirmity or illegality in the order passed by the Appellate Court. Accordingly, this revision is dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To.

1.The Additional District and Sessions Judge
Fast Track Court III
Vriddhachalam

2.The Judicial Magistrate Court II
Vriddhachalam

Copy to:The Section Officer,
Criminal Section,
High Court, Madras

RK(CO)
sm:7.3.2018

CRL.R.C.No.1722 of 2011



WEB COPY