

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2018

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Cr1.R.C.No.624 of 2010

Kandasamy

... Petitioner /PW 1

Vs

1. State : represented by
The Inspector of Police,
Polur Police Station,
Crime No.791 of 2016
Tiruvannamalai District.

2. Tamizhselvan
3. Arugadass
4. Balamurugan
5. Gopinath
6. Dhandapani
7. Kumar
8. Jothi
9. B.Ramesh
10.Azhagumalai
11.S.Rathinavel
12.Williams

... Respondents/Complainant &
Accused 1 to 11

Criminal Revision Case filed under Section 397 and 401 Cr.P.C. to call for the records and against the judgment of acquittal dated 19.03.2010 of the learned Sessions Judge, Tiruvannamalai made in C.A.No.11 of 2009 acquitting the respondents No.2 to 12 by reversing the judgment of the learned Judicial Magistrate, Polur in C.C.No.841 of 2006 dated 18.09.2009.

For Petitioner : No Appearance

For Respondents : Mr.R.Ravichandran

Government Advocate - R1

Mr.L.Mahendran - R2 to 12

O R D E R

This revision has been filed against the judgment of acquittal dated 19.03.2010 of the learned Sessions Judge, Tiruvannamalai made in C.A.No.11 of 2009 acquitting the respondents No.2 to 12 by reversing the judgment of the learned Judicial Magistrate, Polur in C.C.No.841 of 2006 dated

18.08.2009, wherein the learned Judicial Magistrate, Polur convicted the respondents (accused) No.2 to 12 for offences (1) under section 294(b) read with 149 of IPC and sentenced to undergo one month simple imprisonment (2) under section 448 read with 149 of IPC and sentenced to undergo 3 months simple imprisonment and (3) under section 323 read with 149(2 counts) of IPC and sentenced to undergo 3 months simple imprisonment.

2. Brief facts leading to filing of this revision is as follows :

The accused 1 to 11, who were employed in Dharani Sugar Mills have been directing the workers not to engage in work after 5 p.m. On 26.09.2006 at about 5.30 p.m., when P.W.2, P.W.3, P.Ws.5 to P.W.7 and others were working in the mill, the accused unlawfully assembled and directed the witnesses to stop the work. Further, the first accused abused P.W.2 and the other accused attacked P.W.1 and 2 with stick and hands. The learned trial Court convicted the accused under section 294(b) r/w.149 and imposed a sentence of three months under section, further convicted under section 448 read with 149 of IPC and sentenced to undergo 3 months simple imprisonment and also three months for offence under section 323 (2) counts r/w.149 IPC. However, the learned first appellate Court set aside the above conviction and acquitted the accused. As against which, the present revision came to be filed.

3. Normally the revision court will be more reluctant to interfere with the judgment of acquittal passed by the lower Courts, unless there are compelling reasons. When the evidence has been properly appreciated by the trial Court in arriving at a finding, the appellant/revisional Court would be reluctant to interfere with such a finding.

4. A perusal of the finding of the first appellate Court, it can be seen that the first appellate Court appreciated the evidence of eye witnesses and found that Ex.P.1, First Information Report itself is an after thought and came to be registered after three days with deliberations. Further, the eye witnesses version also establish the fact that immediately after the alleged occurrence, the police was very much present and they received the written complaint from the witnesses . But the above complaint has not seen the light of the day. Whereas, Ex.P.1, which is said to have been registered at 21.30 hours, was projected as the First Information Report. It is to be noted that Ex.P.1 is also not registered as First Information Report immediately. The First Information Report has been registered only on 29.06.2006 after three days. There is no explanation, whatsoever in this regard by the prosecution. The learned first appellate Court took note of the serious discrepancies in this regard and disbelieved Ex.P.1 and the version of the eye witnesses.

5. P.W.1 and P.W.2 are said to be eye witnesses. Their evidence also has been disbelieved by the first appellate Court, considering their earlier statement before the medical officers and the nature of injuries said to have been sustained by them. Except abrasion and alleged pain all over their body, there were no serious injuries sustained by P.W.1 and P.W.2. All these facts have not been properly appreciated by the trial Court. Similarly, all the accused are factory workers. Therefore, their presence in the premises is natural and their presence cannot be presumed as an unlawful assembly. Hence, this Court is of the view that the first appellate Court has rightly appreciated the evidence in all aspects and recorded a finding of acquittal and there is no infirmity or perversity in the judgment of the first appellate Court. Hence, there is no scope for interference with the judgment of the first appellate Court and this revision is liable to be dismissed.

6. Accordingly, this revision case is dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vrc
To

1. The Sessions Judge,
Thiruvannamalai.

2. The Judicial Magistrate,
Polur.

3. -do-Thro The Chief Judicial Magistrate
Tiruvannamalai

4.The Inspector of police
Polur Police Station
Thiruvannamalai District

5.The Public Prosecutor
High Court, Madras

+1 cc to Mr.L.Mahendran Advocate sr 10027

Cr1.R.C.No.624 of 2010

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aa15/03/2018