



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 02.04.2018

DELIVERED ON : 24.04.2018

WEB COPY

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.479 of 2017

A.Selvaraj

.. Petitioner

Vs.

State Rep. By
The Inspector of Police,
Karur Town Police Station,
Karur.
(Cr.No.498 of 2005)

.. Respondent

Prayer : This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., to call for the records pertaining to the judgment of Judicial Magistrate No.I, Karur made in C.C.No.90 of 2007 dated 16.05.2011 as modified in Crl.A.No.2 of 2014 dated 21.12.2015 on the file of the Fast Track Court/Mahila Court, Karur and quash the same.

For Petitioner	: Mr.Radhi Sathish
For Respondent	: Mr.M.Chandrasekaran Additional Public Prosecutor

JUDGMENT

Heard Mr.Radhi Sathish, learned counsel appearing for the petitioner and Mr.M.Chandrasekaran, learned Additional Public Prosecutor appearing for the respondent.

2.The criminal revision case has been filed challenging the judgment dated 16.05.2011 in C.C.No.90 of 2007 passed by the learned Judicial Magistrate No.I, Karur as modified in Crl.A.No.2 of 2014 dated 21.12.2015 on the file of the Fast Track Court/Mahila Court, Karur.

3.On 31.05.2005 at about 7.30 p.m., in Karur Bus Stand in the time keeper's office, while P.W.1 was conducting inspection, <https://hdservices.courts.tn.gov.in/hdservices/> accused in a drunkard mood attacked P.W.1 with wooden stick and caused injuries and criminally intimidated him. As such, a case was registered in Crime No.498 of 2005 by Karur Town



Police Station. After trial, the Judicial Magistrate has convicted the accused and the first Appellate Court has confirmed the same.

4. On the side of the petitioner, it is stated that the petitioner involved in union activities and just to curtail him and to victimize him, a false case has been foisted and there is no motive for the petitioner against the victim. Even in the evidence of P.W.1 and P.W.2, no motive is suggested. It is further stated that the Departmental Enquiry was also initiated against the petitioner and the petitioner is now retired.

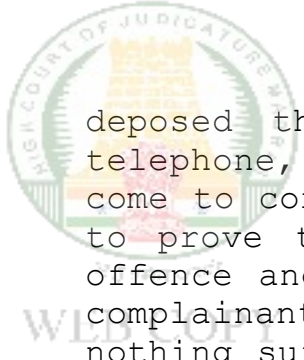
5. On the side of the petitioner, it is further argued that three complaints have been registered with regard to the same offence. P.W.1 has stated that he has lodged a complaint and the Managing Director has called the police through phone and another complaint has been lodged in the out post. It is further stated that there is a delay in filing the FIR. Hence, the FIR itself tide over.

6. On the side of the petitioner, it is stated that there is no eyewitness except P.Ws.1 and 2 and other eyewitness P.Ws.3 to 5 turned hostile. It is further stated that P.Ws.7 and 9 turned hostile and hence, M.O.1 weapon is not proved.

7. On the side of the respondent, it is stated that the victim is the General Manager in TNSTC. The accused is a driver working under him. Due to misconduct, P.W.1 lodged a report to the higher Officials against the accused. With this motive, the accused/petitioner herein assaulted P.W.1 with the wooden box and caused injuries. P.W.8 gave treatment to the P.W.1 and wound Certificate is marked as Ex.P.3. P.W.8 has deposed that P.W.1 has blood injuries in the left side earlobe and there were two condusion on the left side head and left side cheek. It is further stated that the evidence of P.W.8 and the evidence of P.W.1 and P.W.2 co relates each other and this evidence was supported by P.W.3 also.

8. On the side of the prosecution, it is stated that due to some misconduct P.W.1 filed a report to the higher official, so absence of motive is not proved by the petitioner and as regards the defence of three different complaints are lodged regarding the same offence, no documents were filed by the petitioner to prove that three different complaints are filed. There is no evidence to prove that the complaint is lodged belatedly.

9. Records Perused. P.Ws.1 and 2 clearly deposed that the accused attacked P.W.1 with a wooden box which is meant to keep the telephone. The evidence of P.W.8 also co relates the evidence of P.W.1 and P.W.2 regarding the injuries. P.W.11 deposed that he has seen the wooden box. No motive is suggested against the Investigation Officer. M.O.1 was identified by P.W.1. P.W.2 has



deposed that accused used wooden box, which is used to keep telephone, to attack P.W.1. Hence, the lower Court has correctly come to conclusion that M.O.1 is proved. The petitioner has failed to prove that the three complaints has been filed for the same offence and that there is no motive for the accused to attack the complainant and that there was a sudden provocation. There is nothing sufficient enough to interfere with the order of the lower Court. The lower Appellate Court has come to conclusion in convicting the accused, but the maximum fine under Section 323 is only Rs.1,000/-. Hence, the judgment of the lower Appellate Court is modified to that effect that the accused is liable to pay fine of Rs.500/-. The petitioner is entitled to get refund of the excess fine amount paid by him in the lower Court.

10. With the above direction, this criminal revision case is dismissed. No Costs.

Sd/-

Assistant Registrar(T & P)

/True copy/

Sub Assistant Registrar

Mrn
To

1. The Judicial Magistrate No.I, Karur

2. Fast Track Court/Mahila Court, Karur.

3. The Inspector of Police,
Karur Town Police Station,
Karur.

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

5 The Record Keeper,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai

+1 cc to M/S.N.SATHISH BABU, Advocate SR.No.63269

Cr1. R.C. (MD) No.479 of 2017
24.04.2018

SMA/CM-PN/SAR-3/14.05.2018:3P/8C