



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl. R.C.(MD)No.787 of 2017

Thanka Nadar

... Petitioner / *De-facto* complainant

-Vs.-

1. State of Tamil Nadu,
Represented by Inspector of Police,
Karungal,
Kanyakumari District.

2. Arul
3. Johnson
4. Dennis
5. Vishnu
6. Justin
7. Vincent
8. Shaji

... Respondents / Accused

Prayer: Criminal Revision Case - filed under Section 397 r/w 401 Cr.P.C., to call for the records and to set aside the order of the Principal District Munsif cum Judicial Magistrate, Eraniel passed in C.C.No.309 of 1998 dated 22.10.2008 and allow the above Criminal Revision Case.

For Petitioner : Mr.K.Sree Kumaran Nair

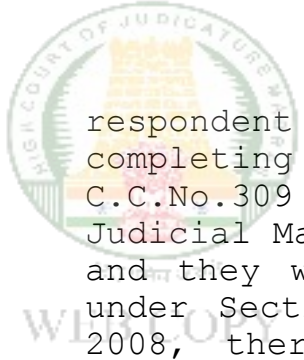
For R-1 : Mr.M.Asokan

Government Advocate

For R-2 to R-8 : No appearance

O R D E R

The case of the prosecution is that on 09.01.1997, the accused herein, who are the relatives of the petitioner / *defacto*-complainant, had assaulted the *defacto*-complainant at 10.30 p.m. and had caused injuries to the *defacto*-complainant and also had taken away his table phone, half Sovereign gold ring and other articles valued at Rs.75,000/-. On the complaint given by the petitioner, a case in Crime No.9 of 1997 was registered on the file of the first



respondent under Sections 147, 448, 427 and 379 I.P.C.. After completing the investigation, the police filed a charge sheet in C.C.No.309 of 1998 on the file of the learned District Munsif cum Judicial Magistrate, Eraniel. The accused appeared before the Court and they were furnished with the copies of relied upon documents under Section 207 Cr.P.C. and charges were framed. From 1998 to 2008, there was absolutely no progress in the trial Court and ultimately, one witness, namely, Dhamodharan, Retired Police Constable was examined and four documents were marked. The accused were acquitted by the trial Court by order dated 22.10.2008. Challenging the acquittal, the petitioner / defacto complainant has filed the present Criminal Revision Case with a delay of 42 days and the delay was condoned in the year 2017 and the appeal has been numbered.

2. The learned counsel for the petitioner / defacto complainant submitted that the trial Court had not taken any steps to send summons to the *defacto*-complainant for his examination.

3. This Court gave its anxious consideration to the submission of the learned counsel for the petitioner.

4. Admittedly, the accused and the *defacto*-complainant were relatives and it is alleged that the incident had taken place in the year 1997. The accused has been acquitted in the year 2008, that is only after 11 years. We are now in the year 2018.

5. In such view of the matter taking into consideration, the nature of the allegations and other facts and circumstances of the case, this Court is of the view that this is not a fit case to set aside the order passed by the trial Court in the year 2008. Hence, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District Munsif cum Judicial Magistrate, Eraniel.
2. The Inspector of Police, Karungal, Kanyakumari District.
3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

sm

MV:GT:SAR3:31/01/2018/2P/4C

Crl. R.C. (MD) No.787 of 2017