



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl. R.C.(MD)No.834 of 2017
and
Crl. M.P.(MD)No.10271 of 2017

R.T.Ramesh Kumar ... Revision Petitioner / Petitioner /
Appellant/Defacto Complainant
-Vs.-

1. The Inspector of Police,
Rajakkkamangalam Police Station,
Kanyakumari District. ... 1st Respondent/Complainant

2.Raj
3.Ayyathurai
4.Rajamoni
5.Murugan
6.Laxmanan ...Respondents 2 to 6 / Accused Persons

Prayer: Criminal Revision Case - filed under Section 397 r/w 401 Cr.P.C., to set aside the order, dated 07.10.2017, passed in Cr.M.P.No.357 of 2016 in C.A.No.58 of 2015, on the file of the IV Additional Sessions Judge's Court, Tirunelveli.

For Petitioner : Ms.K.M.Priscilla Jancy

For R-1 : Mr.C.Mayilvahana Rajendran
Additional Public Prosecutor

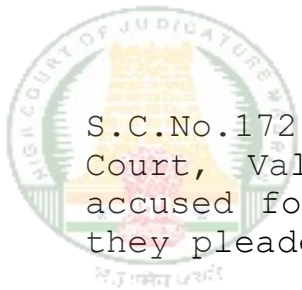
For R-2 to R-6 : Mr.V.Sasikumar

O R D E R

On the complaint lodged by the petitioner, the police registered a case in Crime No.325 of 2012 and after completing the investigation, filed a charge sheet in P.R.C.No.10 of 2013 before the learned Judicial Magistrate, No.III, Nagercoil against the respondents 2 to 6 herein for the offences under Sections 147, 148, 294(B), 307, 506(2) IPC and Section 3 of TNPPDL Act r/w Section 149 IPC.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The case was committed to the Court of Sessions in



S.C.No.172 of 2014 and was made over to the Assistant Sessions Court, Valliyoor for trial. Charges were framed against the accused for the aforesaid offences and when they were questioned, they pleaded not guilty.

3. On behalf of the prosecution, 14 witnesses were examined, 10 documents and 3 Material Objects were marked. When the accused were questioned about the incriminating circumstances appearing in evidence against them under Section 313 Cr.P.C., they denied the same.

4. After considering the evidence on record, the trial Court, by judgment dated 27.10.2014 in S.C.No.172 of 2014, acquitted the accused. Challenging the acquittal, the petitioner herein, who is *defacto*-complainant filed C.A.No.58 of 2015 under Proviso 2 to Section 372 & Section 374 of the Criminal Procedure Code and the same is now pending on the file of the learned Fourth Additional District and Sessions Judge, Tirunelveli. During the pendency of the appeal, the petitioner filed Cr.M.P.No.357 of 2016 in C.A.No.58 of 2015 under Section 391 Cr.P.C. for taking additional evidence by marking the settlement deed, Patta and other documents to show that the property in question belonged to the petitioner. The appellate Court dismissed Cr.M.P.No.357 of 2016 in C.A.No.58 of 2015 on 07.10.2017, challenging which, the petitioner has filed the present Criminal Revision Case.

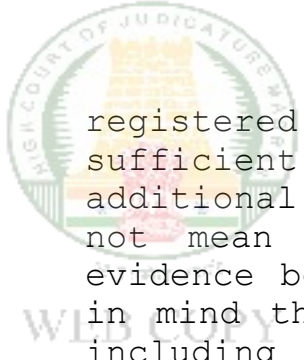
5. Heard Ms.K.M.Priscilla Jancy, learned counsel for the petitioner, Mr.V.Sasikumar, learned counsel for the respondents 2 to 6 / accused and Mr.C.Mayil vahana Rajendren for the State.

6. Ms.K.M.Priscilla Jancy, learned counsel for the petitioner submitted that the trial Court has given a finding that the prosecution has failed to produce materials to show that the damaged compound wall belonged to the *defacto*-complainant. Therefore, the learned counsel submitted that the additional evidence would show that the property belonged to the *defacto*-complainant.

7. Per contra, the learned counsel for the accused refuted the contention.

8. This Court gave its anxious consideration to the rival submissions.

9. At the first blush, the arguments of Ms.K.M.Priscilla Jancy, learned counsel for the petitioner sounded appealing, inasmuch as the trial Court has given a finding to the effect that the prosecution has failed to prove that the property in question belonged to the *defacto*-complainant. However, on a deeper scrutiny of the matter, it is seen that the *defacto*-complainant is an advocate by profession and on his complaint, an FIR was



registered and he was examined as P.W.1. Therefore, he had sufficient opportunity to produce necessary documents even as additional evidence before the trial Court. Of course, that does not mean that he should be precluded from filing additional evidence before the appellate Court. However, it should be borne in mind that the accused have been acquitted of all the charges including the grave charge under Section 307 IPC by the Trial Court. Thus, the presumption of innocence has been fortified by the order of acquittal passed by the trial Court in favour of the accused. Such a presumption should not be dislodged in a cavalier manner by taking additional evidence in a case of this nature, as that would amount to witch-hunting the acquitted persons. The main allegation of the petitioner / *defacto*-complainant is that the accused attempted to murder him with deadly weapons. To prove this charge, the documents in question which he wants to be admitted as additional evidence in the appeal would have no relevance. The trial Court has disbelieved the evidence of the petitioner in respect of the alleged assault incident and has acquitted the accused.

10. According to the petitioner, the assault incident and the breaking of the compound wall had taken place in the course of the same transaction.

11. Admittedly, the petitioner / *defacto*-complainant did not suffer any injuries. In his evidence, he stated that when the accused attacked with lethal weapons, he escaped. His testimony did not cut-ice with the trial Court.

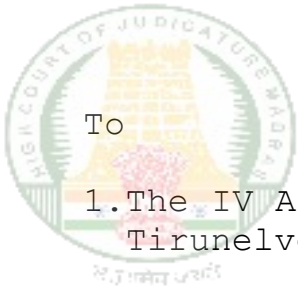
12. Of Course, the same evidence is under re-appraisal by the First Appellate Court and, therefore, this Court does not want to make any opinion on that. Suffice it to say that the documents that are being sought to be admitted as additional evidence would, in no way, enhance the case of the petitioner and, therefore, this Court does not find any illegality or impropriety in the order passed by the First Appellate Court in Cr.M.P.No.357 of 2016 warranting interference.

13. In the result, this Criminal Revision Case is devoid of merits and the same is dismissed. Consequently, the connected Miscellaneous Petition is dismissed.

14. The learned Fourth Additional District Sessions Judge, Tirunelveli is directed to complete the case in C.A.No.58 of 2015, within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(P&A)



To

1. The IV Additional District and Sessions Judge,
Tirunelveli.

2. The Inspector of Police,
Rajakkkamangalam Police Station,
Kanyakumari District.

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

Copy to:

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

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