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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 03.07.2018

DELIVERED ON : 19.07.2018

CORAM :

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl.R.C.(MD) No.362 of 2018

1.Nandagopalan

2.Senthilkumar

3.Mani @ Manikandan

4.Vengatasan

5.Logu

... Petitioners

vs.

1. The Sub Inspector of Police,
Kenikarai Police Station,
Ramanathapuram,
Ramanathapuram District.

2.Nadarajan Chettiar

... Respondents

Prayer:- Criminal Revision Petition filed under Sections 397 r/w. 401 of the Code of Criminal Procedure, 1973, to call for the records relating to Judgment passed by the learned Principal District Judge, Ramanathapuram dated 17.04.2018 in C.A.No.9 of 2016 partly reversing the Judgment passed by the learned Judicial Magistrate No.2, Ramanathapuram in C.C.No.131 of 2011 dated 20.11.2014 and set aside the same.

For Petitioners : Mr.R.Murugan

For 1st Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl. Side)

ORDER

Heard Mr.R.Murugan, learned counsel appearing for the petitioners and Mr.K.Suyambulinga Bharathi, learned Government Advocate (Crl. Side) appearing for the first respondent.



2.This petition has been filed to set aside the order passed in C.A.No.9 of 2016 dated 17.04.2018 before the learned Principal District Judge, Ramanathapuram partly reversing the Judgment passed by the learned Judicial Magistrate No.II, Ramanathapuram in C.C.No.131 of 2011 dated 20.11.2014.

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3.The case against the petitioners is that on 06.05.2011 at about 10.30 a.m., behind the house of P.W.1 along the common lane, A5 and A6 demolished the wall constructed by the defacto complainant and caused a damage of Rs.500/- (Rupees Five Hundred only) and A1 to A4 scolded the complainant and others with abusive words. A2 and A3 attacked the defacto complainant with brick. A1 and A4 assaulted victims with hands and legs and A1 to A3 criminally intimidated them. A case in Crime No.211 of 2011 was registered against the accused. The charges framed against the accused are given below:

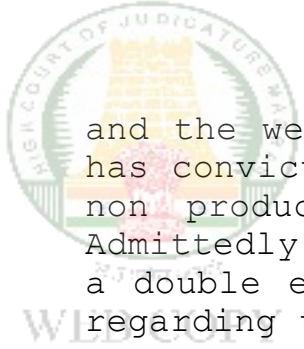
Accused Nos.	Offences under Sections
1	147, 148, 294(b), 323, 506(ii) of IPC
2 and 3	147, 148, 294(b), 324, 506(ii) of IPC
4	147, 148, 294(b), 323 of IPC
5	147, 148, 427 of IPC

4.After trial, the learned Judicial Magistrate acquitted all the accused. Against the order of acquittal, the learned District Judge, Ramanathapuram had convicted A1 to A6 for the offence under Section 147 of IPC and A1 to A4 for the offence under Section 323 of IPC and partly allowed the appeal. Against the order passed in the appeal, this revision petition has been filed.

5.On the side of the petitioners, it is stated that injury is not proved and the Doctor has deposed that there is a possibility for the injuries to have been caused by falling upon hard surface. It is further stated that P.W.1 has admitted that there is enmity between the accused and the complainant and there is a civil dispute pending between them. Crow bar is not produced by the prosecution. P.W.3 is the son of P.W.1 and P.W.3 turned hostile and P.W.3 has deposed that he saw P.W.1 lying down with blood injuries.

6.On the side of the prosecution, it is stated that civil dispute is the only motive for the accused to attack the defacto complainant. The prosecution has examined 8 witnesses and marked 4 documents and that the injuries are proved by the evidence of the Doctor.

7. Records perused. On the side of the petitioners, it is stated that the crow bar was not seized by the first respondent



and the weapon was not proved by the prosecution. The trial Court has convicted the accused only under Section 323 of IPC and hence, non production of crow bar is not fatal to the prosecution. Admittedly there is a civil dispute between the parties. Motive is a double edged weapon. As such the contention of the petitioners regarding that motive cannot be entertained.

8.P.W.2 has deposed that Sethilkumar, Mani @ Manikandan, Vengatasan and Nandagopalan were involved in the occurrence. P.W.1 has deposed that Senthilkumar, Vengatasan, Logu Nandagopalan were involved in the occurrence and out of them Nandagopalan, Senthilkumar, Mani @ Manikandan and Vengatasan attacked the defacto complainant. P.W.2 has deposed that Senthilkumar, Mani @ Manikandan, Vengatasan attacked the defacto complainant. From the evidence of P.Ws.1 and 2 and from the evidence of the Doctor, it is clear that P.W.1 was having injury. The Doctor has deposed that the injuries are simple in nature. In Ex.P4, Wound Certificate, it is stated that the victim has stated that he was attacked by six persons. The evidence of P.Ws.1, 2 and 6 co-relates each other and their evidence was also supported by Ex.P4.

9.In the circumstances, the order of the first Appellate Court in convicting A1 to A6 for the offence under Section 147 of IPC and sentenced them to pay a sum of Rs.500/- (Rupees Five Hundred only) in default to undergo two weeks Simple Imprisonment and also convicting A1 to A4 for the offence under Section 323 of IPC and sentenced them to pay a sum of Rs.500/- (Rupees Five Hundred only) in default to undergo one week Simple Imprisonment is correct and there is no serious infirmity to interfere with the order passed by the learned Principal District Judge, Ramanathapuram.

10.With the above observation, this Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar(AS)

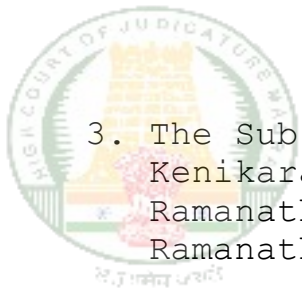
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Sub Assistant Registrar(CS-IV)

To

1.The Principal District Judge,
Ramanathapuram.

2.The Judicial Magistrate No.II,
Ramanathapuram.



3. The Sub Inspector of Police,
Kenikarai Police Station,
Ramanathapuram,
Ramanathapuram District.

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

+ 1 cc TO Mr.R.Murugan , Advocate in SR No. 74306

mrn

AE/SKN RSK/SAR4/30.07.2018/4P/6C

Crl.R.C.(MD) No.362 of 2018
19.07.2018