

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE NO.346 OF 2007

ORDER:

This revision is filed by the petitioner-de facto complainant under Sections 397 and 401 Cr.P.C. challenging the judgment, dated 05.12.2006 in C.C.No.242 of 2004 on the file of the II Addl. Munsif Magistrate, Gurazala, wherein the respondents-A1 to A7 were acquitted for the offences punishable under Sections 143, 427, 384 and 506 r/w 34 IPC.

2. There was no representation on behalf of the petitioner on 18.04.2018. Therefore, the matter was directed to be listed today under the caption 'for dismissal'. Even today also, when the matter has come up, none appeared there is no representation on behalf of the petitioner. Under these circumstances, this revision can be disposed of on merits.

3. It has been averred in the grounds of revision that the trial Court acquitted the accused in spite of there being sufficient evidence. The trial Court ought to have considered the evidence of P.Ws. 1 to 5. The delay in lodging the F.I.R. is not fatal to the case of the prosecution. There is ample evidence to believe that A1 to A7 went to the field of P.W.1 and damaged the pipes and taken them away. The findings of the trial Court are erroneous and ultimately, prayed to set aside the impugned judgment.

4. As seen from the material placed on record, A1 to A7 alleged to have forcibly removed the water pipes belonging to P.W.1 and damaged them with axe and also beat P.W.2. The prosecution got marked Ex.P1-report given

by P.W.1, Ex.P2-mediatorname, dated 25.07.2004, Ex.P3-F.I.R., Ex.P4-rough sketch of scene of offence and Ex.P5-three photos along with negatives. There is also evidence of D.Ws. 1 and 2 to rebut the prosecution case. There is record to show that a suit in O.S.No.402 of 2003 is pending between A2 and P.Ws. 1 and 2 on the file of the Principal Junior Civil Judge, Gurazala. There is also record to show that A2 obtained injunction order in his favour restraining P.Ws. 1 and 2 from drawing water through the land of A2, which is the scene of offence. There are no independent witnesses to the alleged offence. In view of pendency of civil suit, there is possibility of false implication of the accused in the instant case. The scene offence is the land belonging to A2. P.W.1 or P.W.2 cannot claim the said land as their own in view of the injunction order granted against them. There is also no consistency in the prosecution witnesses. There is delay in lodging the F.I.R. In view of that, there is possibility of roping A1 to A7 in the case after due deliberations. The trial Court had given benefit of doubt to A1 to A7. There is no miscarriage of justice. There is nothing to take a different view. The revision is devoid of merit and is liable to be dismissed.

5. Accordingly, the Criminal Revision Case is dismissed confirming the judgment, dated 05.12.2006 in C.C.No.242 of 2004 on the file of the II Addl. Munsif Magistrate, Gurazala. Miscellaneous petitions, if any pending in this Revision shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 25-04-2018.

Hsd