

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.No.1502 of 2012

Pitchaikannu

..

Petitioner/de facto
complainant

Vs.

1. State represented by
The Inspector of Police,
Edayur Police Station,
Edayur,
Thiruvarur District. .. Respondent/Complainant
2. Ramesh @ Kalyanaraman
3. Sundaramurthy .. Respondents/Accused

Criminal Revision filed under Section 397 r/w 401 Cr.P.C., to set aside the judgment and order dated 24.08.2012 passed in C.A.No.53 of 2008 on the file of the District and Sessions Court, Thiruvarur, modifying the judgment and order dated 23.11.2006 passed in S.C.No.16 of 2006 on the file of the Subordinate Court, Mannargudi, Thiruvarur District.

For Petitioner : Mr.G.Thyagarajan

For R1 : Mrs.P.Kritika Kamal
Govt. Advocate (Crl.Side)

For RR2 and 3 : Mr.R.K.Attappan

O R D E R

This criminal revision has been filed seeking to set aside the judgment and order dated 24.08.2012 passed in C.A.No.53 of 2008 on the file of the District and Sessions Court, Thiruvarur, modifying the judgment and order dated 23.11.2006 passed in S.C.No.16 of 2006 on the file of the Subordinate Court, Mannargudi, Thiruvarur District.

2. The facts of the case in brief are as under:

2.1 On the complaint lodged by the petitioner, the first respondent/police registered a case in Crime No.68 of 2003 and after completing the investigation, filed a final report in P.R.C.No.25 of 2005 before the Judicial Magistrate Court, Thiruthuraipoondi, against Ramesh @ Kalyanaraman (A1) and Sundaramurthy (A2), for the offences under Sections 294-B, 506 (II) and 307 IPC.

2.2 The case was committed to the Court of Session in S.C.No.16 of 2006 and was made over to the Subordinate Court, Mannargudi, Thiruvarur, for trial.

2.3 After a full fledged trial, the Trial Court, by judgment and order dated 23.11.2006 in S.C.No.16 of 2006, convicted and sentenced Ramesh @ Kalyanaraman (A1) and Sundaramurthy (A2) as follows:

Accused	Provision under which convicted	Sentence
Ramesh @ Kalyanaraman (A1)	Section 294-B IPC	Three months simple imprisonment and fine of Rs.500/-, in default to undergo three months simple imprisonment.
	Section 506 (II) IPC	Three years simple imprisonment and fine of Rs.1000/-, in default to undergo three months simple imprisonment.
	Section 307 IPC	Five years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo three months simple imprisonment.

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Accused	Provision under which convicted	Sentence
Sundaramurthy (A2)	Section 294-B IPC	Three months simple imprisonment and fine of Rs.500/-, in default to undergo three months simple imprisonment.
	Section 506 (II) IPC	Three years simple imprisonment and fine of Rs.1000/-, in default to undergo three months simple imprisonment.
	Section 307 IPC	Five years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo three months simple imprisonment.

The aforesaid sentences were ordered to run concurrently.

2.4 Challenging the above conviction and sentence, the accused preferred an appeal in C.A.No.53 of 2008 before the District and Sessions Court, Thiruvavur, in which, the Appellate Court, by judgment and order dated 24.08.2012, confirmed the conviction, but, reduced the substantive sentence imposed by the Trial Court for the offence under Section 307 IPC from five years rigorous imprisonment to four rigorous imprisonment. The fine amount and substantive sentences imposed for the other offences were maintained.

2.5 Challenging the reduction of sentence by the Appellate Court, the petitioner/de facto complainant has filed the instant revision.

3. Heard Mr.G.Thyagarajan, learned counsel for the petitioner/de facto complainant, Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) for the first respondent/State and Mr.R.K.Attappan, learned counsel for the second and third respondents.

4. It is reported that Sundaramurthy (A2)/third respondent has died and Ramesh @ Kalyanaraman (A1)/second respondent is undergoing the sentence.

5. A three Judge Bench of the Supreme Court, in Girish Kumar Suneja Vs. CBI¹, has held that revisional jurisdiction is a discretionary one and that the same can be exercised only if the High Court finds that there is an error apparent on the face of the record. The relevant portion of the said judgment is as follows:

"27. Our conclusion on this subject is that while the appellants might have an entitlement (not a right) to file a revision petition in the High Court but that entitlement can be taken away and in any event, the High Court is under no obligation to entertain a revision petition - such a petition can be rejected at the threshold. If the High Court is inclined to accept the revision petition it can do so only against a final order or an intermediate order, namely, an order which if set aside would result in the culmination of the proceedings. As we see it, there appear to be only two such eventualities of a revisable order and in any case only one such eventuality is before us. Consequently the result of paragraph 10 of the order passed by this Court is that the entitlement of the appellants to file a revision petition in the High Court is taken away and thereby the High Court is deprived of exercising its extraordinary discretionary power available under Section 397 of the Cr.P.C."

6. On a totality of the facts obtaining in this case, this Court is of the view that the order of Appellate Court reducing the substantive sentence from five years rigorous imprisonment to four years rigorous imprisonment for the offence under Section 307 IPC, cannot be said to be illegal or perverse, warranting interference under Section 397 r/w 401 Cr.P.C.

In fine, this criminal revision is dismissed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

nsd

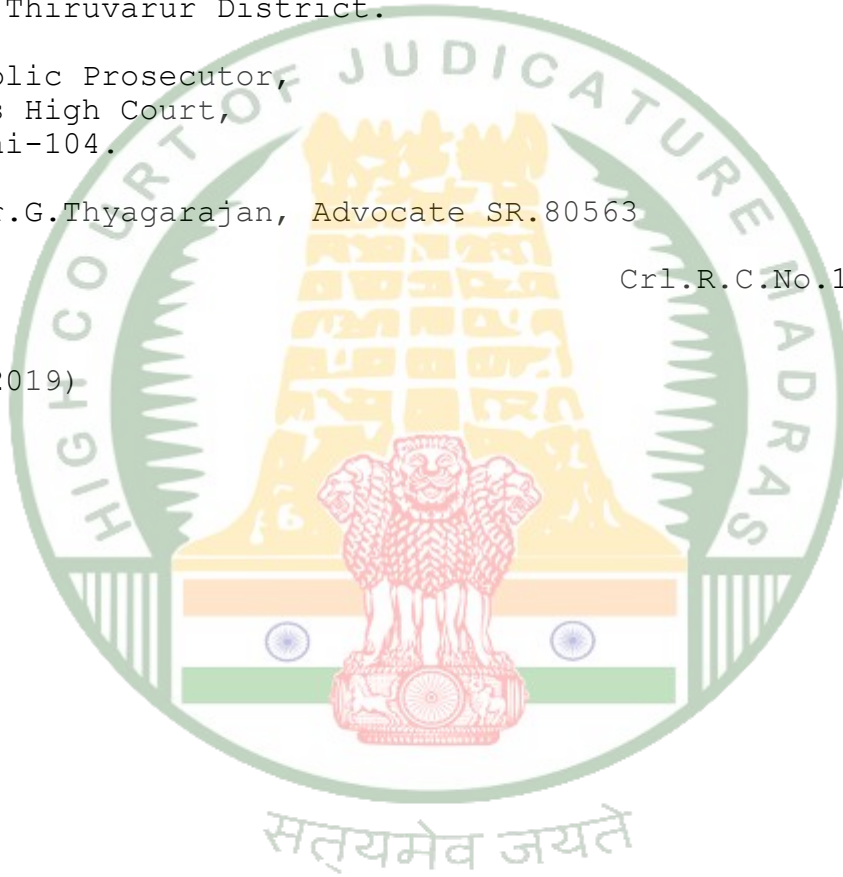
To

1. The District and Sessions Judge,
Thiruvarur.
2. The Subordinate Judge,
Mannargudi,
Thiruvarur District.
3. The Inspector of Police,
Edayur Police Station,
Edayur, Thiruvarur District.
4. The Public Prosecutor,
Madras High Court,
Chennai-104.

+1cc to Mr.G.Thyagarajan, Advocate SR.80563

Cr1.R.C.No.1502 of 2012

SPD(CO)
CB(13/11/2019)



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