

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.02.2019

Coram:

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

Criminal Revision Case No.314 of 2012

S.Ramachandran

.. Petitioner/PW1/Defacto Complainant
/versus/

1.State of Tamil Nadu
Rep.by Sub Inspector of Police,
Railway Police Station,
Coimbatore
(Crime No.561/1995) ..1st Respondent/Complainant

2.S.Abdul Razak

3.P.Mac Daniel

4.G.Purushothaman

.. Respondents 2 to 4/Accused 1 to 3

Criminal Revision Case has been filed under Section 397 r/w 401 of Cr.P.C. praying to call for the entire records relating to Spl.S.C.No.30/2005 on the file of the Special Court-cum-Principal Sessions Court, Coimbatore and set aside the order dated 27.08.2008 and convict the accused Nos.1 to 3/respondents 2 to 4 in respect of offences charged against them and allow this criminal revision case.

For Petitioner :Mr.R.Sathishkumar for
Mr.A.P.Srinivas

For Respondents :Mr.T.Shanmuga Rajeswaran
Government Advocate (Crl Side) for R1

No appearance for R2 to R4

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O R D E R

This revision petition is directed against the acquittal of the accused from all the charges.

2. The revision petition is filed by the defacto complainant, who was examined as PW-1. According to the prosecution, respondents 2 to 4 belong to Non-Scheduled Caste community and the revision petitioner/defacto complainant belongs to Scheduled Caste Community. They all are employees of Southern Railway. On 02.10.1995, at

about 09.30 a.m., when the defacto complainant was on duty near Mettupalayam Railway Station attending Blue Mountain Rail Coach, respondents 2 to 4 came there and caught hold of the petitioner's shirt and used abuse language. They scolded him for spreading false news that the union to which A1 and A2 belong collecting money, particularly from one Ferozkhan. The second respondent took an iron rod and attacked the petitioner on his head. The fourth respondent assisted others. The nose of the petitioner got injured. They left the place after threatening the petitioner that if he gives any complaint, they will kill him. At that time, it is alleged that the second respondent(A1) and the third respondent(A2) used caste name of the petitioner. Based on the complaint given by the revision petitioner, the police has registered the case under Sections 294(b), 341 and 324 of IPC against the first accused(second respondent); Sections 341 and 323 against the second accused (third respondent) and 324 r/w 34 of IPC against the third accused (fourth respondent) besides respondents 2 to 4 were also charged for the offence under Section 3 (1) (x) of SC/ST(POA) Act.

3. To prove the charges, the prosecution has examined 12 witnesses and 11 exhibits were marked. After analyzing the evidence and appreciating the contradictions in the prosecution case, the Court below has acquitted all the accused. Aggrieved by the order of acquittal, the present revision is filed by the defacto complainant.

4. The learned counsel appearing for the petitioner would submit that the reasoning given by the Court below for acquitting the accused is not sustainable. It is against the law and evidence. The Court below failed to consider the testimony of PW-1 to PW-3 and there is no reason to disbelieve their evidence. While the injured witness has spoken about the nature of the injury and the person, who has caused injury and the weapon used, there is no necessity to search for any other corroboration, since the evidence of PW-1 is sufficient to inspire the confidence of the Court.

5. The injured witness immediately after the occurrence has reported the incident to the police and PW-6 (Mr.Durairajan) has spoken about the complaint. While so, the subsequent intimation received by the police, after PW-1 got admitted in the hospital has been taken on record by the Station House Officer and he has registered First Information Report. When there are no two complaints, the Court below ought not to have disbelieved the case of the prosecution and acquitted the accused persons on the ground that the earlier complaint was not registered. This cannot be a ground to disbelieve the entire case of the prosecution. There was no previous complaint, except Ex.P1, which is an outcome

of the intimation received from the hospital. Hence, acquittal on this score is perverse.

6. The learned counsel appearing for the petitioner would submit that the specific overt act of each of the accused though not been specifically mentioned by the victim in the deposition, the wound certificate and the evidence adduced by the prosecution particularly through the injured victim PW-1 regarding the injury been clear and cogent. This ought to have been accepted by the Court below for convicting the accused person.

7. Per contra, the learned Government Advocate would submit that the prosecution took all the pains to marshal the evidence collected through its investigation. The witnesses who saw the occurrence and supposed to support the case of the prosecution have not deposed in support of the prosecution. Their testimony failed to inspire the confidence of the Court below, which has resulted in acquittal.

8. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the first respondent. Records perused.

9. PW-1 has contradicted his own evidence regarding the place of occurrence. The content of the complaint is vague. The falsehood in the complaint and later embellishment in the improved testimony has led to the acquittal. The allegation regarding offence under Section SC/ST Act that the accused called the defacto complainant by his caste name found to be false by the trial Court, since PW-1 could not specifically say by which name the accused called him. PW-2 has come out with two different versions and had alleged that the accused abused him by using two different community names, though both communities are listed as Scheduled Castes, the inconsistency in the version of PW-1 has lead to disbelieve his testimony.

10. The accused have proved that there was enmity between the defacto complainant and the accused person regarding union activities. The union rivalry has led to lodge the complaint. As far as the injury is concerned, no witness has supported the case of the prosecution to corroborate the version of PW-1 regarding, who caused the injury. The prosecution witness PW-2 has only spoken about the wordy quarrel between the defacto complainant and the accused, but he has not seen the occurrence.

11. The reasoning given by the Court below, for acquitting the accused persons is possible. This Court could not find any perversity in the order. When two views are possible and the accused has been acquitted, the revision Court or the appellate Court cannot substitute its own view detrimental to the accused.

12. For the aforesaid reason, this Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Special Court-cum-Principal Sessions Judge,
Coimbatore .

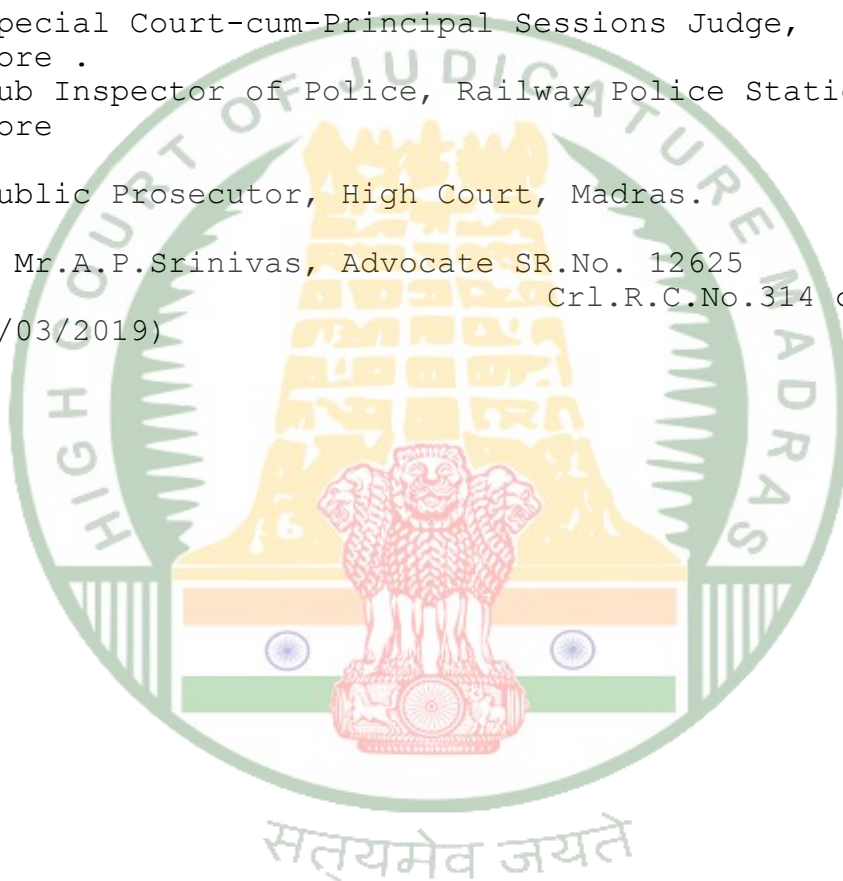
2.The Sub Inspector of Police, Railway Police Station,
Coimbatore

3.The Public Prosecutor, High Court, Madras.

+1cc to Mr.A.P.Srinivas, Advocate SR.No. 12625

CrI.R.C.No.314 of 2012

A.SK(26/03/2019)



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