

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.03.2019

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.R.C.No.368 of 2012

1.Manohar
2.Srinivasan

.. Petitioners

/vs/

State rep.by
Inspector of Police,
Panruti Police Station,
Cuddalore District.
Crime No.501 of 2010

.. Respondent

Criminal Revision Case filed under Section 397 r/w 401 of the Criminal Procedure Code against the conviction and sentence passed by the learned Principal Sessions Judge (Mahila Court), Cuddalore made in S.C.No.91 of 2011 by judgment dated 05.03.2012 convicting the accused/petitioners herein for the offence under Section 324 of IPC respectively and sentencing them to undergo Rigorous Imprisonment for one month each for the offence under Section 324 of IPC and also pay fine of Rs.1000/- each in default to undergo one week Simple Imprisonment each for the offence under Section 324 of IPC.

For Petitioners :Mr.Jayanthi Venkatesh

For Respondent :Mr.T.Shunmugarajeswaran
G.A.(Crl.side)

ORDER

This Criminal Revision is directed against the judgment of conviction and sentence imposed by the Sessions Judge, Mahila Court, Cuddalore holding A1 and A2 guilty of offence under Section 324 of IPC.

2. The brief facts of the case is that on 12.05.2010 at about 06.30 a.m., when Rajalakshmi tried to pluck the plantain leaf from the land of the first accused Manokaran, he used obscene and abusive language and attacked her with knife on her head with an intention to commit murder. When her daughter Anusiya came to rescue her mother on hearing screaming, A2 Srinivasan attacked her with iron shaft on her left thigh. Surendran grand-son of

Rajalakshmi, who came to rescue her, was also assaulted. All the three injured persons were taken to Panruti hospital for treatment.

3. The Doctor, who treated them has noted the injuries found on their bodies and certified that the injuries are simple in nature. On completion of investigation, Final Report has been filed against Manokaran(A1), Srinivasan(A2) and Kalavathy(A3). The Court below has framed charges under Sections 294(b) and 307 IPC against the first accused and charges under Section 324 of IPC against accused 2 and 3.

4. To prove the charges, the prosecution has examined 9 witnesses. 11 exhibits and 2 material objects were marked in support of the prosecution. On the side of the defence, 3 witnesses were examined and 2 exhibits were marked. The trial Court, after appreciating the evidence, has held that A1 has caused injury found on PW-2, but there is no evidence to show that the said injury was caused with intention to commit murder and therefore, altered the charge under Section 307 of IPC to Section 324 of IPC.

5. As far as the second accused is concerned, accepting the evidence of the victim PW-1, who sustained injury on her thigh due to the assault by A2 using iron shaft [M.O.1], the trial Court found A2 guilty of offence under Section 324 of IPC. For want of evidence, A3 was acquitted for the offence under Section 294(b) of IPC. The Court below has sentenced A1 and A2 to undergo Rigorous Imprisonment for a period of one month and fine of Rs.1,000/- in default to undergone Simple Imprisonment for one week. The said conviction and sentence is under challenge in the revision petition.

6. The learned counsel appearing for the revision petitioners would submit that the rough sketch and the defence evidence let in by DW-1 to DW-3 would clearly show that PW-1 to PW-3 are the aggressors. The incident took place, when PW-2 tried to pluck the plantain leaf from the land of A1. Further, the learned counsel would submit that the trial Court has not considered the long standing enmity between PW-1's family and A1's family regarding the property. Exs.D1 and D2 are the documents, which

relate to title of the property, where the occurrence took place. The contradiction in the charge and medical accident register regarding the place of injury on PW-1 ought to have weighed the mind of the trial Court and A1 ought to have been acquitted since the trial Court has failed to consider the animosity and failed to appreciate the defence evidence. The judgment of the trial Court is liable to be set aside and the revision petitioners are entitled for acquittal.

7. Per contra, the learned Government Advocate (crl.side) would submit that the material objects used by the accused persons to assault PW1, PW-2 and PW-3 are deadly in nature and their intention to use such deadly weapon and caused injury clearly indicates that they want to eliminate PW-2. However, the trial Court after considering the defence evidence and the circumstances under which the incident has taken place, had leniently viewed the offence converted the charge under Section 307 IPC into Section 324 of IPC and imposed very minimum sentence of one month Rigorous Imprisonment. Though the sentence is very inadequate and not proportionate to the gravity of

the crime, considering the other aspects, the trial Court has imposed very lenient punishment. The first revision petitioner has already undergone the period of sentence during the pre-trial stage itself and therefore, the learned Government Advocate would contend that there is no illegality or infirmity in the order of the trial Court to interfere with.

8. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (crl.side) appearing for the State and perused the records.

9. The perusal of the records would go to show that on 12.05.2010, PW-2 has gone near the house of A1 to pluck plantain leaf. This has been objected by A1. In the course of wordy quarrel, A1 has attacked PW-2 on her hand using M.O.2[Kinfe]. A2 has attacked PW-1 using M.O.1[Iron Shaft]. Though there are evidence to show that the other accused also caused injury, since the trial Court found the accused not guilty, there is no necessity to discuss further about the overtact of Kalavathy (A3).

10. As far as the overtact of these two revision petitioners is concerned, the evidence is clear and cogent. The offence of causing hurt using deadly weapon is made out. The only point, which could be reviewed is whether the period of imprisonment imposed on them is excessive. As pointed out by the learned Government Advocate, one month Rigorous Imprisonment for the offence under Section 324 of IPC is very minimum. In fact, A1 has already undergone the said period .

11. So far as A2 is concerned, the learned counsel appearing for the revision petitioners would submit that he is a young boy. He was about 21 years at that time and he joined the scuffle after hearing the commotion. He was arrested immediately after registering the First Information Report and released on bail after 10 days. She prays that taking note of the age and period of imprisonment during pre-trial, the period already undergone may be the period of imprisonment.

12. This Court finds that the overtact of A2 is only a repulsive action or not a pre-meditated one. Considering the nature of the injury caused by him and the long lapse of the period, while confirming the conviction passed by the trial Court, the period of imprisonment, as far as A2 is concerned, is modified as period already undergone. The fine amount imposed on him remains unaltered. The conviction and sentence imposed on the A1 by the trial Court shall stand confirmed.

13. With the above modification, this Criminal Revision Case is partly allowed. Bail bond, if any executed by the second accused shall be cancelled. The respondent police is directed to secure the first accused and to commit him in to the prison to undergo the remaining period of sentence.

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Index:yes/no

Internet:yes/no

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To

1.The Principal Sessions Judge (Mahila Court), Cuddalore.

2.Inspector of Police, Panruti Police Station, Cuddalore District.

3.The Public Prosecutor, High Court, Madras.

Dr.G.JAYACHANDRAN,J.

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