

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Cr1.R.C.No.609 of 2012

V.Varada Pillai ...Petitioner/De-facto Complainant

Vs.

1.The State rep.by Sub-Inspector of Police,
Panruti Police Station,
Cuddalore District. ..Respondent/Complainant

2.Syed Siraj

3.Syed Rasool ...Respondents/Accused

Prayer: Criminal Revision case filed under Section 397 r/w
401 of Cr.P.C. praying to setting aside the judgment of
C.C.No.50 of 1998 dated 04.04.2005 on the file of Judicial
Magistrate, Panruti.

For Petitioner : Mr.V.Raghavachari

For R1 : Mr.T.Shanmuga Rajeswaran
Government Advocate

For R2 and R3 : Mr.D.Palani

O R D E R

Heard the learned counsel appearing for the revision
petitioner and the learned counsel for the respondents.

2. This Court, after considering the records and submissions
made by the learned counsel for the revision petitioner on
11.04.2019, passed the following order:-

'2.Aggrieved by the order of acquittal, the
present revision is filed by the injured victim, who

was examined as PW-1 before the trial Court. At the time of filing the revision petition, since there was some delay, the revision petitioner has filed the application to condone the delay in which the respondent has appeared through counsel by name Mr.G.P.Kothandaraman., but after the revision petition numbered, it appears, the learned counsel for the respondent has not filed a fresh memo of appearance and when the case was listed for the past four occasions, there was no representation.

3. The learned counsel appearing for the revision petitioner would submit that the judgment of the trial Court is perverse and illegal since the evidence of the injured witnesses PW-1, PW-2 which have been well fortified and proved through the wound certificates and the testimony of the Doctors were not considered by the Court below. The trial Court has erroneously treated the Doctor as interested witness and disbelieved the case of the prosecution. Ex.P3 is the wound certificate given by the Government Doctor at Panruti for PW-1. Ex.P4 is the wound certificate given by the Government Doctor, Panruti to Radha (PW-4). Ex.P5 is the wound certificate issued by the Chief Medical Officer, Government General Hospital, Chennai in respect of grievous injury sustained by PW-2. The Doctors, who have examined these injured persons and given wound certificates were examined as PW-8 and PW-9.

4. While so, the finding of the trial Court unbelieving the unassailable testimony of PW-1, PW-5, PW-2 who were sustained injury at the hands of the accused, clearly exposes perversity and illegality. However, after lapse of 22 years of the occurrence and the respondents have not been represented through counsel, this Court is of the opinion that remanding the matter back to the trial Court for de novo trial may not be appropriate. Therefore, the first respondent is hereby directed to summon respondents 2 and 3 to be present before this Court on 24.04.2019 to pass further orders.''

3. Pursuant to the order of this Court, the third respondent was present. The learned counsel for the respondents 2 and 3 also present and submitted that the second respondent is living abroad and is not able to give any instructions regarding the possibility of compounding the offence. The third respondent who is present would submit that he is ready to face the de novo trial. The Trial Court has acquitted the accused without proper appreciation of evidence of the injured witnesses, which is also

corroborated by the medical evidence. Therefore, the order of acquittal is liable to be set aside and the matter is remanded back to the Trial Court.

4. Accordingly, Criminal Revision Case is disposed of. The judgment passed by the Judicial Magistrate, Panruti in C.C.No.50 of 1998 dated 04.04.2005 is hereby set aside. The Registry is directed to send back the records to the Judicial Magistrate, Panruti for proper appreciation of evidence and pass appropriate orders after causing notice to both the parties i.e., the defacto complainant and the accused. The Judicial Magistrate, Panruti is directed to dispose of the matter within a period of six months from the date of receipt of copy of this order.

rpl

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Judicial Magistrate,
Panruti
- 2.-Do- Thro' The Chief Judicial Magistrate,
Panruti, Cuddalore.
- 3.The Public Prosecutor,
High Court, Madras.
4. The Sub-Inspector of Police,
Panruti Police Station,
Cuddalore Dist.

Copy to:-

The Section Officer,
Criminal Section,
High Court, Madras - 104.

(For sending the records to concerned Court)

WEB COPY

+1cc to Mr.V.Raghavachari, Advocate, SR.No.40422

+1cc to Mr.G.P.Kothandraman, Advocate, SR.No.41872

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Kak (20/05/2019)



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