

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.668 of 2012

1. Selvam
2. Kaliyappan

...Petitioners

Vs.

State rep. by Inspector of Police,
Ammamet Police Station,
Crime No.3/2007

...Respondent

Criminal Revision Case filed under Section 397 read with 401 of Code of Criminal Procedure, to set aside the judgment of C.A.No.22 of 2009 dated 14.06.2012 on the file of the learned Special Judge for EC Act Cases, Salem confirming the judgment of trial Court in S.C.No.259 of 2007 dated 09.01.2009 on the file of the learned Principal Assistant Sessions Judge, Salem.

For Petitioners : Mr.R.Nalliyappan

For Respondent : Mr.T.Shanmuga Rajeswaran
Govt. Advocate (Crl. side)

O R D E R

The Criminal Revision Case has been filed to set aside the judgment of the appellate Court in C.A.No.22 of 2009 dated 14.06.2012 on the file of the learned Special Judge for EC Act Cases, Salem confirming the judgment of the trial Court in S.C.No.259 of 2007 dated 09.01.2009 on the file of the learned Principal Assistant Sessions Judge, Salem.

2. The case of the prosecution is that earlier, the first accused had lent money to one Saravanan. As such, the first accused threatened to repay the money, pursuant to which the said Saravanan committed suicide. When his body kept in front of his house, all the accused persons came and threatened the complainant and his wife and son. They stated that after the funeral rites, they will repay the money. Thereafter, the quarrel arose between them. At that time, accused 2 and 3 caught hold the complainant and the first accused attacked him brutally

and caused simple injuries. When it was questioned by the complainant's wife and their son, they have also been attacked with wooden log by the accused. Hence, the complainant/P.W.1 lodged a complaint against the accused persons.

3. Based on the complaint, the respondent police has registered a case against the revision petitioners/accused in Crime No.3 of 2007 for the offence under sections 307, 323 read with 34 IPC. After registering the case and investigation, the respondent Police laid a charge sheet before the learned Judicial Magistrate-V, Salem. Subsequently, the learned Magistrate has taken cognizance of the charge sheet. Since the offences are triable by the Court of Sessions, the case was committed to the learned Principal District and Sessions Judge, Salem. The learned Sessions Judge, Salem has taken the case on file in S.C.No.259 of 2007 and made over the same to the Assistant Sessions Judge, Salem for disposal. The learned Assistant Sessions Judge, framed charges against all the accused for the offence under Sections 323, 307 read with 34 IPC. In order to prove the case of the prosecution, before the learned Sessions Court, on the side of the prosecution, as many as 12 witnesses were examined and 15 documents were marked and two material objects were produced. After completion of the evidence on the prosecution side, when the incriminating materials were culled out and put before the accused, they denied the same as false. On the side of the accused, four witnesses were examined and 10 documents were marked. After hearing arguments of both sides and also perusing the oral and documentary evidence, the learned Assistant Sessions Judge, Salem found the accused 1 and 2 guilty for the offence under Section 323 and 323 read with Section 34 IPC and convicted and sentenced them to undergo 6 months for each section and acquitted A3 and A1 for the offence under Section 307 IPC.

4. Challenging the said order, the accused 1 and 2 filed appeal before the learned Special Judge for EC Act Cases in C.A.No.22 of 2009. After hearing both sides, the learned Special Judge, dismissed the appeal and confirmed the judgment of the learned Principal Assistant Sessions Judge, Salem in S.C.No.259 of 2007, dated 09.01.2009. Challenging the judgment, the petitioners have filed the present revision before this Court.

5. The learned counsel for the petitioners would submit that there was a wordy quarrel between some other financiers and injured witnesses. Some financiers lent money to one Saravanan and threatened him for repayment of the said loan, due to which, the said Saravanan consumed poison and died. During the death ceremony of Saravanan, some financiers asked money to his relatives. The trial Court failed to consider the fact that some other financiers were present on the spot and they created

trouble. Even in the Accident Register Copy, it is mentioned that 5 persons attacked the victim with knife. The Knife has not been recovered from the place. Though the trial Court has disbelieved that the petitioners attacked with the knife, based on which, A3 was acquitted, the same benefit of doubt should have been extended to the revision petitioners also. Further the lower Court observed that since the petitioners were present in the spot, they were also convicted. The prosecution has failed to prove its case beyond reasonable doubt that the revision petitioners only caused injuries and they attacked the victim with knife. None of the witnesses have spoken that the petitioners used wooden log and caused injuries and the medical witnesses have not supported the case of the prosecution. The dispute is with reference to the repayment of the loan. During the death ceremony of Saravanan, there was a wordy quarrel arose between the financiers and injured witnesses. The accused have not caused injury. Except P.W.1 to P.W.4, no other witnesses have spoken about the involvement of the revision petitioners. P.W.1 to P.W.4 are interested witnesses. Therefore, they foisted a false case and given false evidence against the revision petitioners, which warrants interference of this Court.

6. The learned Government Advocate (Crl. side) would submit that the prosecution has established its case beyond reasonable doubt. Though they have stated initially that five persons attacked him, before the trial Court, during trial, it was established that the present revision petitioners were present in the occurrence place and they caused injuries to the victims. A1 admitted his guilt and gave confession statement and recovery was also effected in the manner known to law. Therefore, the same is admissible in evidence. The knife was also recovered and produced before the Court. The Doctor has also stated about the injuries. Further, both the Courts below held that the revision petitioners themselves admitted that they were present in the place of occurrence and the prosecution has proved its case beyond reasonable doubt. Both the Courts below have rightly appreciated the prosecution evidences and convicted the petitioners, and there is no reason to interfere with the judgments of the Court below.

7. Heard the learned counsel for the petitioners as well as the learned Government Advocate (Crl. side) and also perused the materials available on record.

8. It is not in dispute that one Saravanan committed suicide. During the death ceremony, there was a wordy quarrel between the accused and injured witnesses. With regard to repayment of money, there was a quarrel. The injured witnesses have clearly spoken about the involvement of the revision petitioners. The A.R.Copy and wound certificate, medical

evidences corroborated the injuries and the weapons used for causing injury have been recovered and marked before the Court. Though in the A.R.Copy, it was stated that five persons assaulted, while registering, it was made only against three persons. The prosecution has not proved the charges under Section 307 IPC as against A3. During investigation, they found that only three persons were involved in the offence. The trial Court came to the conclusion that the prosecution has not proved its case beyond reasonable doubt against A3 and also against all the accused for the offence under Section 307 IPC. However, the learned Assistant Sessions Judge found that the revision petitioners have committed the offence under Section 323 read with 34 of IPC. The first Appellate Court appreciated the entire evidence and confirmed the order of the trial Court.

9. This Court, heard the arguments on both sides and also considered the submission made by the learned counsel on either side and perused the records. This Court finds that there is perversity in the judgment of the appellate Court. The appellate Court is the final Court of fact finding, re-appreciated the entire evidence independently and came to the conclusion that the petitioners have committed the offence. This Court being a revisional Court, while exercising the revisional jurisdiction, the scope of revision is very limited. While deciding a revision, this Court has to see as to whether there is any perversity in appreciating the evidence by the Courts below.

10. On a reading of entire material evidences, this Court does not find any perversity in the judgments of the Courts below. Under these circumstances, there is no merit in the revision and there is no sufficient reason to interfere with the judgment of the appellate Court.

11. For the above reasons, the Criminal Revision Case is dismissed. The trial Court is directed to secure the custody of the revision petitioners/accused to undergo the remaining period of the sentence, if any.

s/d-

Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

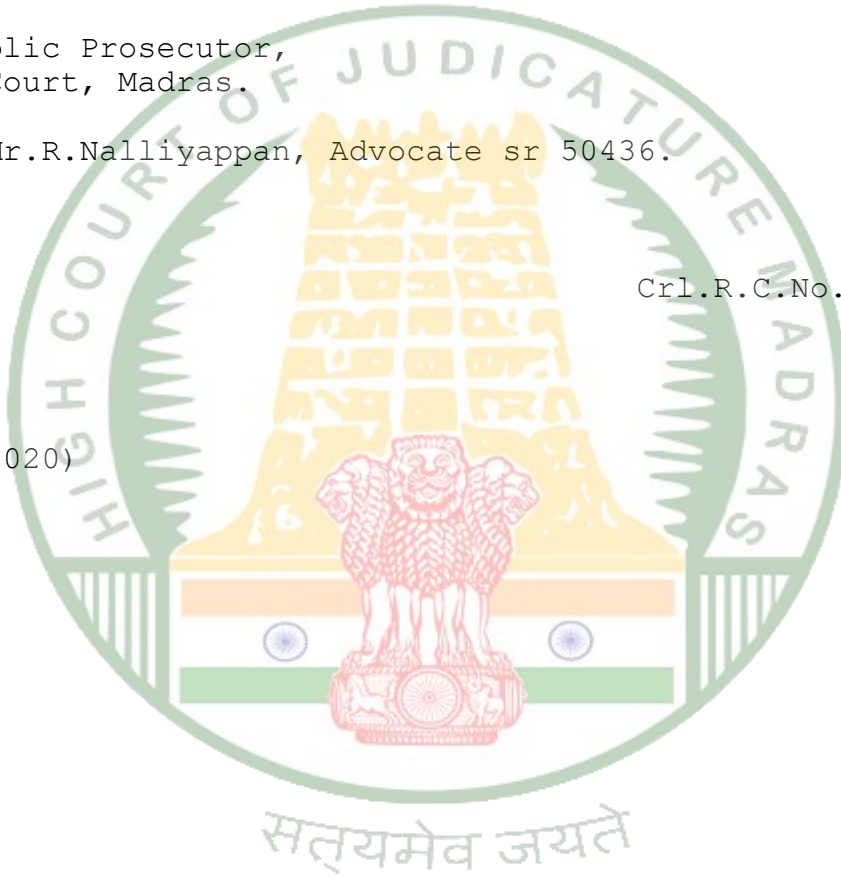
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To

1. The Special Judge for EC Act Cases,
Salem.
 2. The Principal Assistant Sessions Judge,
Salem.
 3. The Inspector of Police,
S-7 Madipakkam Police Station,
Chennai.
 4. The Public Prosecutor,
High Court, Madras.
- +1 CC to Mr.R.Nalliyappan, Advocate sr 50436.

Cr1.R.C.No.668 of 2012

VSNI1(CO)
SP(20/03/2020)



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