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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Cr1.R.C.No.887 of 2012

1. Vadivel
2. Govindasamy
3. Thimmarayan

...Petitioners

Vs.

The State rep. by
The Inspector of Police,
Kambainallur Police Station,
Dharmapuri District.
(Cr.No.10/2005)

... Respondent

The Criminal Revision case filed under Section 397 read with 401 of Code of Criminal Procedure seeking to call for the records relating to the judgment dated 16.06.2011 passed in S.C.No.166 of 2007 on the file of the Subordinate Court, Harur, Dharmapuri District, as confirmed by the judgment dated 02.01.2012 passed in C.A.No.17 of 2011 by the learned Principal District and Sessions Judge, Dharmapuri District and set aside the same.

For Petitioner : Mr.I.C.Vasudevan - No Appearance

For Respondent : Mr.T.Shanmugarajeswaran
Government Advocate (Cr1.Side)

ORDER

This criminal revision case has been filed against concurrent judgment of conviction made by both the Courts below.

2 When the matter was called for hearing on 13.06.2019, at request of the learned counsel for petitioner only, the matter was adjourned to 18.06.2019. Today (18.06.2019), when the matter is called for hearing, there is no representation on



3 It is submitted by the learned Government Advocate
(Crl.Side) that the first petitioner/A1 has died and he has also
produced death certificate of the first petitioner/A1.
Therefore, revision against the first petitioner/A1 is dismissed
as abated.

4 Heard the learned Government Advocate (CrI.Side)
appearing for the respondent police and perused the materials
available on record.

6 Before the trial Court, in order to prove the case of the prosecution, P.W.1 to P.W.14 were examined and Ex.P1 to Ex.P12 were marked and one material object was produced before the Court. The learned Magistrate, after trial, found the accused guilty and by judgment dated 16.06.2011, sentenced A1, A2 and A5 to undergo rigorous imprisonment for a period of one year with fine of Rs.500/- each, in default, to undergo simple imprisonment for a period of one month for the offence punishable under Section 326 of IPC and A3 and A4 are convicted for the offence punishable under Section 324 of IPC (3 counts) each and sentenced to pay fine of Rs.500/- each, in default, to undergo simple imprisonment for a period of one month each and A6 was convicted for the offence punishable under Section 324 r/w 149 of IPC (3 counts) and sentenced to pay a fine of Rs.500/- each, in default, to undergo simple imprisonment for a period of one month for each default. Since A3, A4 and A6 were imposed only fine, they have not filed any appeal against the



said judgment of conviction and A1, A2 and A5 have filed an appeal before the learned Principal District and Sessions Judge, Dharmapuri, in Criminal Appeal No.17 of 2011. The learned Sessions Judge, after hearing both the parties, by judgment dated 02.01.2012 dismissed the appeal and confirmed the judgment of conviction made by the trial Court. Aggrieved against the concurrent judgement of conviction, the accused 1, 2 and 5 are before this Court with the present criminal revision case.

7 It is seen that P.W.1 to P.W.3, who are injured witness, had clearly deposed about the offence committed by the accused. The evidence of Doctors, P.W.10 to P.W.12 had corroborated with the evidence of injured witnesses. Both the Courts below had rightly appreciated the evidence and concurrently convicted the petitioners/accused. The lower appellate Court, being a final Court of fact finding, had re-appreciated the entire evidence independently and confirmed the judgment of conviction made by the trial Court.

8 It is pertinent to note the decision of the Hon'ble Supreme Court reported in AIR 1999 SC 981 (State of Kerala Vs. Putthumana Illath Jathavedan Namboodri), held as follows:

"... In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of Supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an Appellate Court nor can it be treated even as a second Appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to re-appreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice..."

In the present case on hand also the lower appellate Court has re-assessed entire evidence and given its findings. This Court cannot sit in the arm chair of appellate Court and re-assess the evidence and substitute its views on finding of facts. There is no merit in the revision and there is no perversity in the finding given by the lower appellate Court.

9 In the result, the criminal revision case is dismissed as devoid of merit and substance. Trial Court is directed to



secure the petitioners/accused to undergo remaining period of imprisonment, if any.

Sd/-

Assistant Registrar (CS-)

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Sub Assistant Registrar

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To

1. The Subordinate Court, Harur, Dharmapuri District.
2. Principal District and Sessions Judge, Dharmapuri District
3. The Additional Public Prosecutor, High Court of Madras.
4. The Inspector of Police, Kambainallur Police Station, Dharmapuri District.
5. The Judicial Magistrate, Harur.
6. The Chief Judicial Magistrate, Dharmapuri(for information)
7. The section officer, Criminal sections High court, Madras-104.

+1cc to Mr.I.C.Vasudevan Advocate, S.R.No.49921

BP(CO)
CB(25/09/2019)

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