IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.952 of 2012

M.Krishnaveni ...Petitioner

-Vs-

1. Padmanabhan
2. Pachamuthu
3. Govindan
4. Venkatesan
5. Palanisamy

6. State represented by
   The Sub-Inspector of Police,
   Theevattipatti Police Station,
   Salem. (Cr.No.13/2006) ...Respondents

This Criminal Revision Petition is filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order dated 29.06.2010 in S.C.No.353 of 2006 on the file of the learned Assistant Sessions Judge, Mettur and allow the criminal revision.

For Petitioner : Mr.D.S.Dhanasekaran for
M/s.C.S.Associates

For Respondents: Mr.Guruprasad for R1, RR3 to 5
: Mr.T.Shanmugarajeswaran,
Government Advocate (Crl.Side) for R6

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This criminal revision case has been filed by the defacto complainant against the judgment of acquittal dated 29.06.2010 made in S.C.No.353 of 2006 on the file of the learned Assistant Sessions Judge, Mettur and allow the criminal revision.

2 The petitioner, has filed a private complaint before the learned District Munsif-cum-Judicial Magistrate against the respondents 1 to 5 herein stating that she bought a land and

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constructed a house with thatched sheet and the respondents 1 to 5 herein, even before buying the land, had warned the petitioner not to buy the land, since they were trying to buy the same. On the date of occurrence i.e. on 09.04.1999 the respondents 1 to 5 herein along with some more persons, came there and demolished the house and threatened the witnesses with dire consequence. Therefore, the petitioner filed a complaint before the respondent police and since no action was taken on the complaint given by the petitioner, she filed the private complaint. The complaint for the offence punishable under Sections 148, 506(ii) and Section 3(1) of TNPPD Act, filed by the petitioner was taken on file by the learned Assistant Sessions Judge, Mettur, in S.C.No.353 of 2006 and after trial, the learned Sessions Judge, by judgment dated 29.06.2010, acquitted all the accused, since the petitioner/ complainant has not proved her case beyond reasonable doubt. Challenging the said judgment of acquittal, the petitioner is before this Court with the present criminal revision case.

3 According to learned counsel appearing for the petitioner trial Court acquitted all the accused on the ground that worth of the damages has not been proved and the persons resided nearby the occurrence place have not been examined. P.W.1, has categorically stated in the complaint/Ex.P1 and Exs.P3 & 7, the statement of the petitioner recorded under Section 200 Cr.P.C. and the statement given before the respondent police, that the respondents 1 to 5 have entered into the premises and caused damages and also threatened the witnesses. P.Ws.1 to 4 have clearly spoken about the act of the respondents 1 to 5 and the trial Court had failed to appreciate the same and erroneously acquitted all the accused, which warrants serious interference of this Court.

4 The learned counsel appearing for the respondents 1, 3 to 5 would submit that prosecution has not proved its case beyond reasonable doubt. The main allegation levelled against the respondents 1 to 5 is that they have demolished the part of the house owned by the petitioner. The complainant was examined as P.W.1 and she has stated that respondents 1 to 4 and 2 others have damaged, P.W.2 has stated that respondents 1 to 4 have damaged, P.W.3 has stated that all the respondents 1 to 5 have demolished the house, P.W.4 has stated that respondents 1 to 4 have caused the damage and P.W.4 has stated that 5 persons demolished the house and he further stated that there were 20 persons present at the time of occurrence. Therefore there is material contradictions between the evidence of prosecution witnesses, which will affect the case of the petitioner. Further, there is doubt that how many persons have involved in

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the allegations levelled by the petitioner against the respondents 1 to 5. Admittedly, there is civil dispute pending between the parties. The trial Court had rightly acquitted the respondents 1 to 5, which is well founded and does not call for any interference of this Court.

5 Heard the learned counsel appearing on either side and perused the materials available on record.

6 It is seen that the petitioner alleged that the respondents 1 to 5, due to previous enmity, had wrongfully gathered and entered into the house of the petitioner and demolished part of the house and also threatened the witnesses and hence case was registered against the respondents 1 to 5 for the offence punishable under Sections 148, 506(ii) and Section 3(1) of TNPPD Act. The trial Court, after trial, since prosecution has not proved its case beyond reasonable doubt, has extended benefits of doubt towards all the accused and acquitted them. On reading of the evidence of P.Ws.1 to 5, it reveal that there is no corroboration and their evidence contradicts with each other. P.W.1, neither in the complaint, nor in the statements given by her, has revealed worth of the damages and extent of the land and also there is no clear evidence to prove how many persons had actively involved in the crime. The trial Court, after an elaborate trial, had extended the benefits of doubt towards all the accused. This Court, while exercising revisional jurisdiction, does not find any perversity in the judgment of acquittal made by the trial Court, warranting interference of this Court.

7 In the result, the criminal revision case stands dismissed as devoid of merit and substance.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

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To

1. The Assistant Sessions Judge,
   Mettur.

2. The Additional Public Prosecutor,
   High Court of Madras.

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3. The Sub-Inspector of Police,
   Theevattipatti Police Station,
   Salem.

+1cc to M/s.C.S.Associates, Advocate Sr.63728
1cc to Mr.M.Guruprasad, Advocate Sr.63437

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srg 18/11/2019

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