

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2019
CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Cr1.R.C.No.761 of 2013

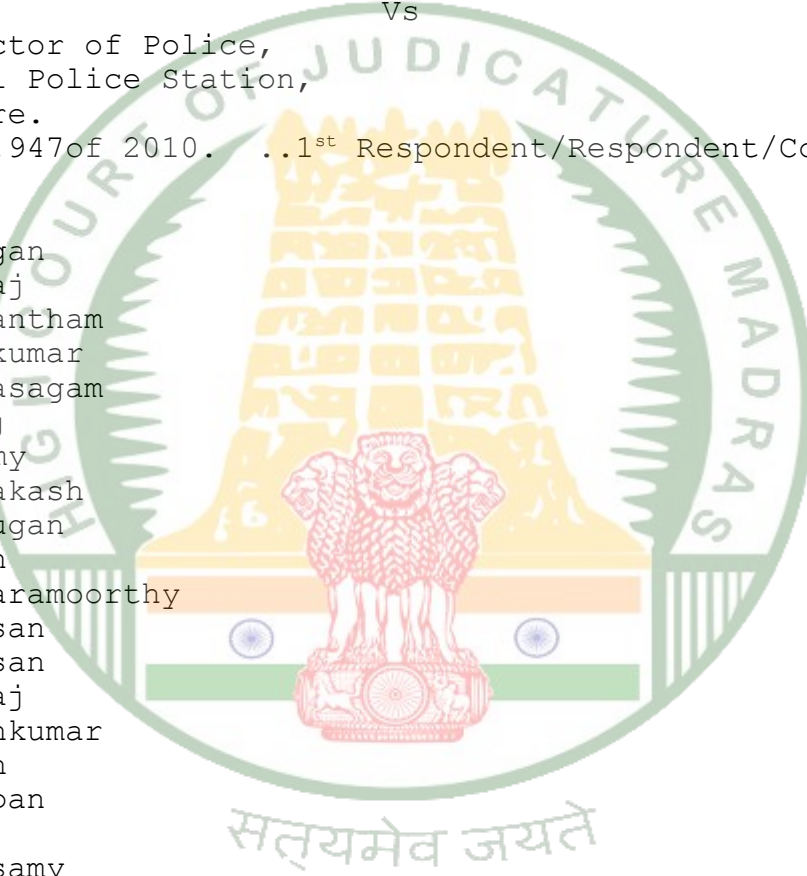
Ravi Shetty

Petitioner/Appellant/PW1

Vs

1.The Inspector of Police,
Vadavalli Police Station,
Coimbatore.
Crime No.947of 2010. ...1st Respondent/Respondent/Complainant

2.G.Ramesh
3.K.Velmurugan
4.R.Dharmaraj
5.P.Muruganantham
6.S.Senthilkumar
7.P.Manikavasagam
8.J.Arul Raj
9.Tt.Aruchamy
10.M.Jayaprakash
11.K.Velmurugan
12.R.Eranian
13.T.K.Sundaramoorthy
14.R.S.Ganesan
15.D.S.Ganesan
16.C.Vimalraj
17.N.Sampathkumar
18.G.Prakash
19.K.Nanjappan
20.N.Rajan
21.P.Palanisamy
22.N.Prabhu
23.K.Ramasamy
24.R.Kittusamy
25.C.Nataraj
26.Ramasamy
27.T.Nataraj
28.S.P.Ganesh
29.N.Vellingiri
30.Jayaram
31.M.P.Murugesan
32.R.Murugesan
33.M.Chinnadurai



WEB COPY

34.M.Sundar Raj
35.M.Nagaraj
36.Kanagaraj
37.Senthil Kumar
38.K.S.Malliga
39.Parvatham
40.Selvi
41.Kuppurathinam
42.Umadevi
43.Shanthi
44.Saraswathi
45.Gunasundari
46.K.Saraswathi
47.M.Gopal
48.Gurunthachalam
49.K.Marimuthu
50.N.Kannan
51.R.Murugesan
52.M.Nataraj
53.P.Mahendran
54.K.Velusamy
55.Premkumar
56.G.Dhandapani
57.K.Karunakaran
58.P.K.Sivaraj
59.N.Sivaraj
60.V.Manikandan
61.P.Prakash

Respondents 2 to 61/Accused 1 to 60

Prayer: Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the judgment passed in CrI.A.No.238 of 2011 on the file of the 1st Additional District and Sessions Judge, Coimbatore dated 12.03.2013 confirming the judgment made in S.C.No.168 of 2011 on the file of the Assistant Sessions-cum-Chief Judicial Magistrate, Coimbatore, dated 29.09.2011.

For Petitioner : Mr.B.Gopalakrishnan

For R1 :Mr.T.Shanmugarajeshwaran
Government Advocate (CrI Side)

For R2 to 61 :Notice not served.

ORDER

The revision petitioner is the defacto complainant. Based on the complaint given by the revision petitioner, the first respondent police registered a case against the respondents No.2 to 61 for the offence under Sections 147, 341 and 506(ii) IPC and Section 3(1) of TNPPDL Act, in Crime No.947 of 2010. After,

completion of the investigation, the first respondent police laid charge sheet before the learned Judicial Magistrate No-6, Coimbatore. The learned Judicial Magistrate No-6, Coimbatore, taken cognizance of the charge sheet on file in P.R.C.No.24 of 2011. Since the offence is triable by the Court of Sessions and committed the case to the learned Principal District and Sessions Judge, Coimbatore. The learned Principal District and Sessions Judge, Coimbatore, taken the case on file in S.C.No.168 of 2011 and made over the case to the learned Assistant Sessions cum Chief Judicial Magistrate, Coimbatore.

2 After framing charges and completing trial, the learned Assistant Sessions Judge, found not guilty of all the accused for the offences under Sections 147, 341 and 506(ii) IPC and Section 3(1) of TNPPDL Act and acquitted the accused. Challenging the said judgement of the learned Assistant Sessions-cum- learned Chief Judicial Magistrate, Coimbatore, in S.C.No.168 of 2011, the defacto complainant had filed an appeal before the learned Principal District and Sessions Judge, Coimbatore in Crl.A.No.238 of 2011. The learned Principal District and Sessions Judge, made over the appeal to the learned I Additional District and Sessions Judge, Coimbatore. After hearing the appeal along with the C.M.P.No.107 of 2012 the learned I Additional District and Sessions Judge, Coimbatore, dismissed the appeal and confirmed the judgment of the learned Assistant Sessions cum Chief Judicial Magistrate, Coimbatore, in S.C.No.168 of 2011. As against the said judgment of the lower appellate Court, the defacto complainant has filed a present Criminal Revision Case before this Court.

3 The learned counsel for the revision petitioner would submit that all the accused are the employees of M/s.Together Textiles Mills India (P) Ltd,. On 10.08.2012 the respondents No 2 to 61 went to the power house and put off the power and also caused damages to the machines and also trespassed into the power house and caused damages by way of putting of the power supply to all the machines and also they threatened and caused damages to the engines and machineries. Therefore, the defacto complainant filed the complaint before the first respondent police. The first respondent police also registered the case against the respondents No.2 to 61. After investigation, the first respondent police laid a charge sheet. Both the Courts below appreciated the evidence and found that there is no specific overtact against the particular respondent herein/accused. P.W.1 has stated that 60 of the accused entered into the mill and also trespassed into the power house and caused damages to the machineries by putting of the power supply. Even P.W.3 is the security, he also spoke about the respondents No.2 to 61 and stated that they entered into mill and also trespassed into the power house and caused damages to

the machineries. Though the prosecution witnesses have spoken about the involvement of the respondents No. 2 to 61, the learned trial Court Judge, failed to consider the incriminating circumstances against the respondents No.2 to 61 and acquitted them. The learned Additional Sessions Judge also failed to consider the materials placed before the trial Court and failed to re-appreciate all the evidences and simply dismissed the appeal by confirming the judgment passed by the trial Court, which warrants interference by this Court.

4 Today, when the matter is taken up for hearing, there is no representation on behalf of the respondents No 2 to 61. Heard the learned counsel for the revision petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent and perused the materials available on record.

5 Though the allegations against the respondents No.2 to 61 that all the accused are employees and also the members of the various union in the complainant factory. During strike, on 10.08.2010 the respondents No.2 to 61 trespassed into the mill and also entered into the power house and put off the power supply and caused damages to the machineries, when questioned about the same, they threatened the co-employees with dire consequences.

6 On reading of the entire materials and also the evidence of the prosecution, though the prosecution alleged against the private respondents that they trespassed into the factory, and also caused damages to the machineries and threatened the co-employees with dire consequences. But on reading of the entire evidences, none of the witnesses have spoken about any specific overtact against the particular respondent/accused.

7 Therefore, the trial Court found that the prosecution has failed to establish its case beyond any reasonable doubt. Therefore, extended the benefit of doubt in favour of the respondents No.2 to 61 accused. The lower appellate Court as a final Court of fact finding, it re-appreciated the entire evidence and also found that there is no merit in the revision case. The Criminal Revision Case is liable to be dismissed.

8 While exercising the revisional jurisdiction, this Court does not find any perversity in appreciation of the evidence and this Court cannot exercise the power of the appellate Court and re-appreciate the entire evidence. When lower appellate Court already re-appreciated the evidence and given finding, unless there is a perversity in re-appreciation of evidence in the findings given by the lower appellate Court, this Court is not inclined to interfere with the findings of

the lower appellate Court.

9 On reading of the entire evidence, this Court does not find any perversity in the findings rendered by the lower appellate Court. There is no merit in the revision case.

10 Accordingly, the Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

sbn

To

- 1.The I Additional District and Sessions Judge,
Coimbatore
- 2.The Assistant Sessions cum Chief Judicial Magistrate,
Coimbatore,
- 3.The Inspector of Police,
Vadavalli Police Station,
Coimbatore.
4. The Public Prosecutor,
High Court, Madras.

Copy To
The Section Offier,
Crl Section, High Court, Madras-104

+1cc to Mr.S.Gunalan, Advocate SR.No.70150

Crl.RC.No.761 of 2013

SSD(CO)
GMY(11/10/2019)

WEB COPY