

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.A.No.214 of 2019 and

Crl.M.P.No.5260 of 2019

1.Yeshwanth Reddy @ Yeswanthkumar

2.Praveenkumar

3.Chandrareddy

4.Radha

5.Rathinamma

...Appellants/Accused 1 to 5

Vs.

The State rep. by

Deputy Superintendent of Police,

Denkanikottai Police Station,

Krishnagiri District.

(Crime No.244 of 2017)

...Respondent/Complainant

The Criminal Appeal filed under Section 374(2) of Code of Criminal Procedure seeking to call for records relating to conviction and sentence passed in S.C.No.126 of 2017 dated 22.03.2019 on the file of the learned Principal Sessions Judge, Krishnagiri and set aside the same.

For Appellant : Mr.S.Kumaradevan for
M/s.A.Prakash

For Respondent : Mr.R.Ravichandran,
Government Advocate (Crl.Side)

Judgment

This criminal appeal has been filed against the judgment of conviction passed in S.C.No.126 of 2017 dated 22.03.2019 by the learned Principal Sessions Judge, Krishnagiri, and set aside the same.

2 The appellants were prosecuted by the respondent police in Cr.No.244/2017 for the offence under Sections 147, 294(b), 325, 355, 323 of IPC and Section 3(i)(r)(s) of SC/ST (Prevention of Atrocities) Amendment Ordinance Act, 2015, (for brevity "SC/ST Act") stating that on 25.04.2017 at about 6.30 a.m., due

to previous animosity, all the appellants/A1 to A5 had scolded defacto complainant in a filthy language, uttering his caste to humiliate in the eyes of public. 1st appellant/A1 assaulted the defacto complainant on nose and mouth using his hand, 2nd appellant/A2 assaulted defacto complainant on chest using his hand, 3rd appellant/A3 kicked the defacto complainant on head using his foot wear, 4th appellant/A4 assaulted defacto complainant and finally 5th appellant/A5 assaulted defacto complainant on face by using her hand and caused injuries. Thereafter on 20.06.2017 at about 10.00 a.m. while the defacto complainant walking through Palm grove, all the appellants/A1 to A5 again scolded him in filthy language uttering his caste by saying "gwj; njtoah kfnd" in order to humiliate him in the eyes of public. After investigation, the respondent police laid charge sheet before the jurisdictional Court and the same was taken on file in S.C.No.126 of 2017 by the learned Principal Sessions Judge, Krishnagiri. The learned Sessions Judge, after trial, found all the accused guilty of offence and by judgment dated 22.03.2019 convicted as follows:

(i) A1 found guilty of offence under Section 147 of IPC and Section 3(1)(r)(s) of SC/ST Act., and sentenced to pay a fine of Rs.1000/-, in default, to undergo simple imprisonment for one month for the offence under Section 147 of IPC, to undergo rigorous imprisonment for one year each and to pay a fine of Rs.1000/- each (Rs.2000/-), in default, to undergo simple imprisonment for one month for the offence under Section 3(1)(r)(s) of SC/ST Act.

(ii) A2 found guilty of offence under Section 147 of IPC and Section 3(1)(r)(s) of SC/ST Act., and sentenced to pay a fine of Rs.1000/-, in default, to undergo simple imprisonment for one month for the offence under Section 147 of IPC, to undergo rigorous imprisonment for one year each and to pay a fine of Rs.1000/- each (Rs.2000/-), in default, to undergo simple imprisonment for one month for the offence under Section 3(1)(r)(s) of SC/ST Act.

(iii) A3 found guilty of offence under Section 147, 323, 355 of IPC and Section 3(1)(r)(s) of SC/ST Act and sentenced to pay a fine of Rs.1000/- each (Rs.3000/-) for the offence under Sections 147, 323, 355 of IPC, in default, to undergo simple imprisonment for one month, to undergo rigorous imprisonment for one year each and to pay a fine of Rs.1000/- each (Rs.2000/-), in default, to undergo simple imprisonment for one month for the offence under Section 3(1)(r)(s) of SC/ST Act.

(iv) A4 found guilty of offence under Section 147, 323 of IPC and Section 3(1)(r)(s) of SC/ST Act and sentenced to pay a fine of Rs.1000/- each (Rs.2000/-) for the offence under

Sections 147 and 323 of IPC, in default, to undergo simple imprisonment for one month, to undergo rigorous imprisonment for one year each and to pay a fine of Rs.1000/- each (Rs.2000/-), in default, to undergo simple imprisonment for one month for the offence under Section 3(1)(r)(s) of SC/ST Act.

(v) A5 found guilty of offence under Section 147, 323 of IPC and Section 3(1)(r)(s) of SC/ST Act and sentenced to pay a fine of Rs.1000/- each (Rs.2000/-) for the offence under Sections 147 and 323 of IPC, in default, to undergo simple imprisonment for one month, to undergo rigorous imprisonment for one year each and to pay a fine of Rs.1000/- each (Rs.2000/-), in default, to undergo simple imprisonment for one month for the offence under Section 3(1)(r)(s) of SC/ST Act.

3 Assailing the judgment of conviction dated 22.03.2019, all the accused 1 to 5 have preferred this criminal appeal.

4 According to learned counsel for the appellants/A1 to A5, case was registered on 26.06.2017, but, charge sheet has not been filed within 60 days from the date of registration of FIR. As per the Special Act, investigation has to be completed and charge sheet has to be filed within 60 days from the date of registration of case. The alleged occurrence said to have taken place is only a private land and not a public place and therefore, the offence under SC/ST Act was not made out. According to prosecution, one occurrence has taken place on 25.04.2017 and another occurrence on 20.06.2017, prosecution has failed to explain as to why complaint was not given immediately after the first occurrence. There is material contradictions between the evidence of prosecution witnesses and prosecution has failed to prove its case beyond reasonable doubt. Therefore the appellants are entitled for acquittal.

5 Learned Government Advocate (Crl.Side) appearing for the respondent police would submit that defacto complainant has explained as to why he has not lodged complainant soon after the first occurrence i.e. on 25.04.2017. Therefore, non filing of complaint immediately after the first occurrence is not fatal to the case of the prosecution. It is settled proposition of law that when the delay in lodging complaint has been explained properly by the complainant, the same can be condoned. The respondent police obtained extension of time for filing of charge sheet from the competent authority and hence non filing of charge sheet within the time will not vitiate case of the prosecution. Even though, the occurrence has taken place in Palm grove, which is a private place, people of the village will use the Palm grove as pathway and therefore, it has been considered as place of public view. Therefore, prosecution has proved the offence committed by the appellants/accused. The learned

Principal Sessions Judge has rightly appreciated evidence on record and convicted the appellant, which does not call for any interference.

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

7 It is seen that first occurrence has taken place on 25.04.2017. The defacto complainant did not lodge complaint soon after the first occurrence. Generally, in village, people will not approach Police Station for every dispute, they will try to sought out the issue through Panchayat only. In some of the villages the SC/ST people are living with fear and also the behavior of some of the non SC/ST community Hindu people that the SC/ST people are under the control and mercy of the non SC/ST caste Hindu people. In the present case also the defacto complainant tried to solve the issue through panchayat and since the appellants continued to harass him by degrading his caste, he lodged complaint, after the occurrence on 20.06.2017. P.W.3, the Doctor, who treated the defacto complainant, has deposed that there was injury on Nose, which is grievous in nature and other simple injuries also found on the body. Even though other witnesses turned hostile, and not supported the case of the prosecution, on reading of deposition of P.Ws.1, 2, 3, 6, and 12, prosecution has proved its case beyond reasonable doubt and there is no reason to discard or disbelieve the evidence of P.W.1 and P.W.2.

8 Even though, there is defect in investigation, that may not be a sole ground to disbelieve the case of the prosecution and acquit the accused. Conjoint reading of evidence of P.W.1, 2, 3, 6, 12, this Court finds that the appellants committed offence as concluded by the trial Court and the trial Court has rightly appreciated the evidence on record and convicted the appellants. This Court does not find any reason to interfere with the judgment of conviction dated 22.03.2019, since it is well founded and reasoned.

9 In the result, the criminal appeal is dismissed. Consequently connected miscellaneous petition is closed. Trial Court is directed to secure all the appellants/accused to undergo remaining period of imprisonment, if any.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

cgi

To

- 1.The Principal Sessions Judge, Krishnagiri.
 - 2.The Deputy Superintendent of Police,
Denkanikottai Police Station, Krishnagiri District.
 - 3.The Public Prosecutor, High Court of Madras.
 - 4.The Section Officer,
Criminal Section, High Court, Madras.
- +1 cc to M/s.A.Prakash, Advocate, Sr.No.36888

CSL/05.07.2019

Crl.A.No.214 of 2019



WEB COPY