

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2019

CORAM :

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.O.P.No.14857 of 2019
in
Crl.A.SR.No.25036 of 2019

Raman .. Petitioner
Vs.

1.State by
The Inspector of Police,
T-12, Poonamallee Police Station,
Chennai.

2.P.Murugan

3.Muthu @ Sathurappan .. Respondents

Criminal Original Petition filed under Section 378(4) Cr.P.C., praying to grant Special Leave to Appeal against acquittal of the respondents/accused for the offences committed by them u/s.294(b), 326, 341 and 307 r/w. 120 IPC by the Principal Sessions Judge, Tiruvallur in S.C.No.304 of 2012 on 18.03.2019.

For Petitioner : Mr.D.Ashok Kumar

For R1 : Ms.P.Kritika Kamal
Government Advocate (Crl. Side)

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O R D E R

This petition has been filed by the petitioner to grant special leave to appeal against acquittal of the accused in S.C.No.304 of 2012 on the file of the Principal Sessions Court, Tiruvallur, by judgment dated 18.03.2019, from the offences under Sections 294(b), 326, 341 and 307 r/w. 120 IPC.

2.On the complaint lodged by the petitioner, the respondent police registered a case in Crime No.208 of 2011 and after completing the investigation, filed a final

report against Murugan (A1) and Muthu (A2) in P.R.C.No.1 of 2012 before the Judicial Magistrate No.II, Poonamallee, for the offences under Sections 294(b), 326, 341 and 307 r/w. 109 IPC. The case was committed to the Court of Session and the Sessions Court framed charges for the offences against A1 and A2. A1 and A2 pleaded 'not guilty'. The prosecution examined 10 witnesses and marked 10 Exhibits and produced one Material Object. When the accused were questioned under Section 313 Cr.P.C., they denied the allegations. On behalf of the accused, one witness was examined and three Exhibits were marked. After considering the evidence on record, the Sessions Court, by judgment dated 18.03.2019 in S.C.No.304 of 2012, has acquitted the accused of all the charges. Challenging the acquittal, the petitioner/de facto complainant (P.W.1) has filed the present appeal against the acquittal with special leave.

3.In this case, the petitioner/de facto complainant (P.W.1) is a practising Advocate. It is his case that, he was attacked with a stone (M.O.1) by the accused on 17.03.2011 at about 20.45 hours and was threatened. It is his case that, he is the owner of two shops at No.31, Vaideeswaran Koil Street, Poonamallee; he had let out those two shops to Murugan (A1); when he asked Murugan (A1) to vacate the shop, a scuffle ensued on 17.03.2011 at about 20.45 hours, in which, A1 and A2 are alleged to have attacked him with a stone.

4.Though, the petitioner was examined as P.W.1 and he narrated the aforesaid incident, the trial Court had found serious inconsistencies in the prosecution evidence. The accused examined the Head Clerk of the Judicial Magistrate Court No.II, Poonamallee, and marked the complaint and FIR in Crime No.209 of 2011, that was given by the accused against the petitioner herein, alleging that the petitioner had attacked the accused and caused injuries. This incident has been completely suppressed by the police and no closure report/charge-sheet was filed in Crime No.209 of 2011. That apart, when the petitioner was admitted in the hospital for the alleged injuries suffered by him, he had told the doctor that, he was attacked by an unknown person. Even in the complaint (Ex.P1) that was given subsequently, the petitioner has implicated only Murugan (A1). Thereafter, the petitioner has improved his case and has implicated Muthu (A2). All these aspects have been considered in detail by the trial Court for acquitting the accused.

5.It is trite that, special leave cannot be granted as a matter of routine and only if it shown that the trial Court's judgment prima facie suffers from perversity and illegality, can special leave be granted.

6.However, this Court does not find any infirmity or illegality in the order passed by the trial Court warranting interference. In the result, this petition to grant special leave to appeal is dismissed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Principal Sessions Judge,
Tiruvallur.
- 2.The Judicial Magistrate No.II,
Poonamallee.
- 3.The Public Prosecutor,
High Court, Madras.
4. The Inspector of Police,
T-12, Poonamallee Police Station,
Chennai.

+1cc to Mr.C.Vijayakumar , Advocate SR.No. 48312

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rk (CO)
A.SK(16/07/2019)

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