

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1394 of 2018
and
Crl.M.P.No.16206 of 2018

VijayaKumar

...Petitioner

Vs

- 1.Kesavan
- 2.Sekar
- 3.Lakshmi
- 4.Bhuvaneswari
- 5.State rep by

Sub-Inspector of Police,
Royapuram Police Station N-1,
Chennai - 600 013.
(Crime No.483 of 2011)

... Respondents

PRAYER: Criminal Revision case filed under Article 397 r/w 401 of Criminal Procedure Code, to set aside the judgment of acquittal dated 09.10.2014 and made in C.C.No.1976 of 2011 on the file of the learned XVI Metropolitan Magistrate, George Town, Chennai and also the judgment dated 02.08.2018 made in Criminal Appeal No.271 of 2016 on the file of the learned V Additional Sessions Judge, Chennai.

For Petitioner : Mr.N.Sankaravadivel

For Respondents: Mr.Ravichandran

Govt. Advocate(Crl. side)- For R5

: Mr.S.Anil Sandeep - For R1 to R4

O R D E R

This Criminal Revision case has been filed to set side the judgment dated 09.10.2014 in C.C.No.1976 of 2011 on the file of the learned XVI Metropolitan Magistrate, George Town, Chennai and also the judgment dated 02.08.2018 in Criminal Appeal No.271 of 2016 on the file of the learned V Additional Sessions Judge, Chennai.

2. The Revision Petitioner is the defacto complainant. He has given a complaint against the respondents one to four before

the fifth respondent police. The fifth respondent Police has registered a case against them. The fifth respondent police completed the investigation about the case and have filed a charge sheet against the respondents 1 to 4 before the learned XVI Metropolitan Magistrate, George Town, Chennai and the same was taken on file in C.C.No.1976 of 2011.

3. During the trial proceedings, 11 witnesses were examined and 7 documents were marked and no material objects were produced on the side of the prosecution. Subsequently, after completing the prosecution witnesses, on the side of the defence, one witness was examined and no documents were produced. After considering the entire materials, enquired the matter elaborately, the learned XVI Metropolitan Magistrate acquitted the respondents one to four. Against the Judgment of the learned Magistrate, the petitioner has preferred an appeal in C.A.No.271 of 2016 before the learned V Additional Sessions Judge, Chennai, after hearing both side, confirmed the order in CC.No.271 of 2016. Challenging the Judgment of the learned V Additional Sessions Judge, Chennai, the victim has filed this present Criminal Revision Case.

4. The learned counsel appearing for the petitioner would submit that on the side of the prosecution, 7 witnesses were examined. Out of which 5 witnesses were spoken about the involvement of A1. P.W.1/victim has clearly spoken the overtact attributed against the A1/first respondent. Though the evidence of P.W.2 to P.W.4 have also corroborated the evidence of P.W.1 and also he was admitted in the hospital and taken treatment as an inpatient for three days. This fact has not been considered by the both the Courts below and acquitted on the ground that no witnesses have spoken about the injuries sustained by the victim/P.W.1. The evidence of P.W.1 to P.W.4 have clearly stated that A1 attacked P.W.1 and he sustained injuries and admitted in the hospital. Doctor also stated that he was admitted in the hospital as inpatient and taken treatment. Therefore, the Judgment of the Courts below warrant interference.

5. The learned counsel appearing for the respondents one to four have clearly stated that, admittedly D.W.1 and Executive Officer have clearly stated that P.W.2/mother in law trespassed into the property and there was a land dispute and there is no external injuries on P.W.1. The prosecution has not proved its case beyond reasonable doubt. Further, P.W.1 to P.W.4 have stated that apart from the respondents one to four along with fifty unknown persons have trespassed into the land and attacked them. As against the said fifty persons, there is no case has been registered. The investigation also does not reveal the same. The benefit of doubt have been extended to the respondents 1 to 4. Therefore, the learned counsel prays for dismissal of this Revision case.

6. Heard both sides and perused the materials available on records.

7. Based on the complaint given by the Revision Petitioner herein, the fifth respondent police registered a case against the respondents one to four for the offence under Sections 448, 323, 506(i) r/w 34 of IPC and fifth respondent registered a case in Crime No.483 of 2011. After the investigation, the respondent police filed a charge sheet before the Magistrate. After the trial, proceedings, the learned Magistrate found that the prosecution has not proved its case beyond reasonable doubt. Further held that there was civil dispute between the petitioner and the respondents 1 to 4. Apart from the respondent 1 to 4, 50 unknown persons have trespassed into the property and attacked the petitioner. But there is no external injuries on P.W.1. Ex.P2/ is the copy of Accident Register filed by the prosecution. The evidence of P.W.10/Doctor, shows that P.W.1 was admitted in the hospital without any external injuries. Though, P.W.1 to P.W.4 has stated that, apart from these respondents 1 to 4 herein along with fifty other persons were trespassed into the house. D.W.1 has clearly stated that P.W.2 is only a trespasser regarding the ownership and extent of the occupations and nature of the occupations there is a civil dispute is pending.

8. Admittedly, P.W.1 clearly stated that the A1 caused injuries to the P.W.1, but the wound certificate, accident register and the doctor's evidence show that there is no external injuries. Under these circumstances, this Court does not find any merits in this Revision case. Accordingly, this Revision Case is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sbn/rli

To

1.The learned XVI Metropolitan Magistrate,
George Town, Chennai.

2.The learned V Additional Sessions Judge,
Chennai,

3.The Public Prosecutor,
High Court, Chennai.

4.The Sub Inspector of Police,
Royapuram Police Station N-1,
Chennai.(Crime No.483 of 2011)

Copy To:

The Section Officer,
Criminal Section,
High Court, Madras.

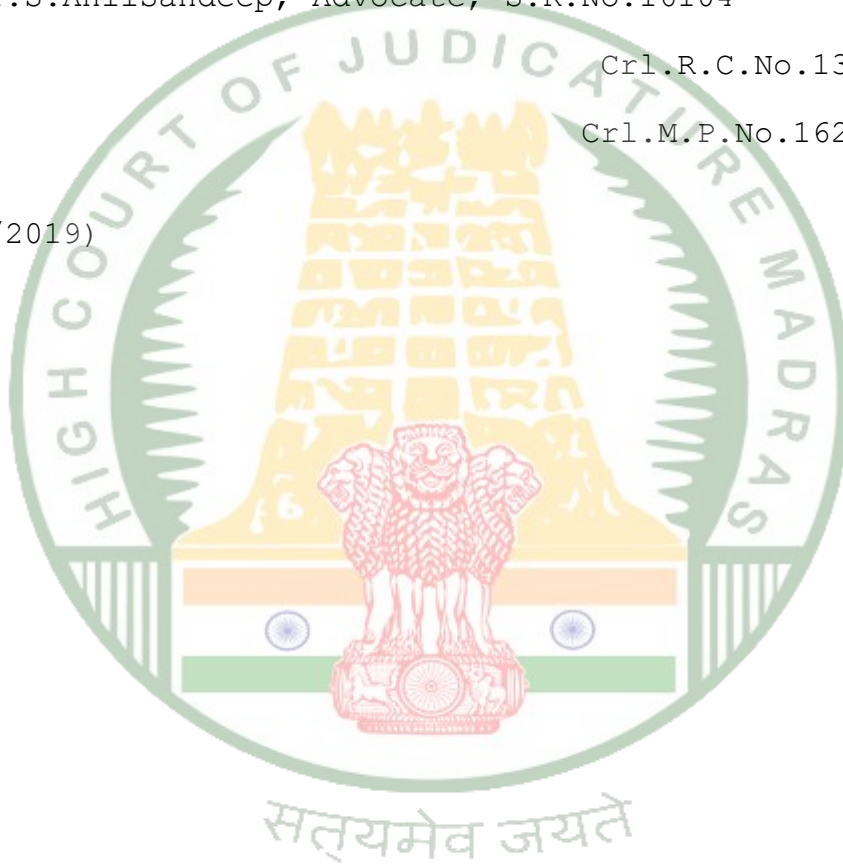
+1cc to Mr.N.Sankaravadivel, Advocate, S.R.No.16237

+1cc to Mr.S.AnilSandeep, Advocate, S.R.No.16104

CrI.R.C.No.1394 of 2018
and
CrI.M.P.No.16206 of 2018

SSV(CO)

RRS (03/07/2019)



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