



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL A (MD)No.270 of 2012

WEB COPY

1.Sathuragiri

2.Srinivasan

... Appellants / P.W.1 and P.W.4

Vs.

1. State, Rep.by

The Assistant Commissioner of Police,
Cantonment Police Station,
Trichirappalli.

... Respondent / Complainant

2.Palaniyandi

3.Periyasamy

4.Manivel

5.Durairaj

6.Shanmugam

... Respondents/Accused Nos.1 to 5

Prayer : This Criminal Appeal is filed under Section 372 of Criminal Procedure Code, to call for the records pertaining to the judgment made in Special S.C No.4 of 2012 dated 02.11.2012 passed by the learned I Additional District and Sessions Judge (PCR), Trichirappalli and set aside the same.

For Appellants : Mr.R.Venkatesan for Mr.P.Rathinam

For Respondents : Mrs.S.Bharathi

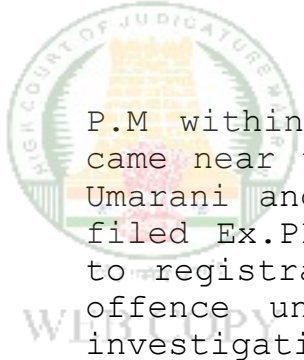
Government Advocate (crl.side) for R1

Mr.M.Saravanan for R2 to R5

JUDGMENT

Questioning the acquittal of R2 to R6 in Spl S.C No.4 of 2012 dated 02.11.2012 on the file of the I Additional District and Sessions Judge (PCR), Trichirappalli, this appeal has been filed. Heard the learned counsel on either side.

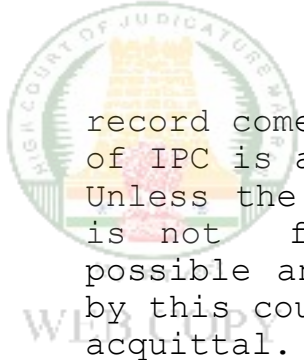
2.The case of the prosecution is that the respondents 2 to 6 herein were facing a murder trial in S.C No.6 of 2009 on the file of the Sessions Court, Trichy. On 14.09.2009, the case was posted for trial. On the said date, the case was adjourned to enable filing a petition by advocate Thiru.Rathinam on behalf of the victim's family. It is the prosecution case that at around 12.00



P.M within the court campus, the respondents herein aggressively came near the witnesses namely, Sathuragiri, Periyasamy, Ganapathi, Umarani and Seenivasan and threatened them. Thereupon, Sathuragiri filed Ex.P1 complaint before the Cantonment Police Station leading to registration of Ex.P6 FIR in Crime No.1481 of 2010. Since the offence under Sections 3(1)(x) of the SC ST Act was invoked, investigation was taken up by the Assistant Commissioner of Police, Cantonment Police Station, Trichy. After investigation, final report was filed and cognizance of the offences under Sections 147, 506(ii) r/w.3(1)(x) of the SC/ST (POA) Act, 1989 was taken in Special S.C No.4 of 2012 on the file of the I Additional District and Sessions Judge (PCR), Trichirappalli. Charges were framed against the accused for the aforesaid offences. The accused pleaded not guilty and claimed to be tried. The prosecution examined as many as 13 witnesses and marked Exs.P1 to P7. On the side of the accused, Ex.D1 was marked. After a detailed consideration of the evidence on record, the trial judge acquitted the accused of the offences with which they were charged. Challenging the same, this appeal has been filed.

3.When the matter was taken up for hearing, this Court wanted to know as to what happened to the murder trial in S.C No.6 of 2009. The learned Government Advocate (crl.side) appearing for the prosecution as well as the learned counsel appearing for the respondents 2 to 6 submitted that the said case had ended in acquittal. The case on hand is only an off-shoot. Be that as it may, I can see that the charge under Section 3(1)(x) of the SC and ST Act is absolutely without any basis. Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 before amendment penalized any intentional insult or intimidation with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view. Even if this Court assumes that there was intentional intimidation, there is no element of humiliation or insult. Even according to the prosecution witnesses, the community of the defacto complainant or others was not referred. Therefore, I fail to understand as to why the charge under Section 3(1)(x) of the Act was framed in the first instance.

4.The private respondents herein were accused in a murder trial. On the said date, the case was listed for hearing. Therefore, their assembling in the court campus on the hearing date cannot be said to constitute an unlawful assembly. Therefore, Section 147 of IPC is also not made out. Now, what remains is whether the offence under Section 506(ii) IPC was established beyond reasonable doubt by the prosecution. It is to be noted that the defacto complainant in this case was none other than the district office bearer of the Puthiya Thamilaagam, a well known political party. They were represented by the none other than the redoubtable Thiru.P.Rathinam Advocate. Section 506(ii) IPC will be attracted only if the victim feels intimidated. In this case, P.W1 has not deposited that he felt intimidated. In any event, the court below had after a careful examination of the testimony and evidence on



record come to the conclusion that the offence under Section 506(ii) of IPC is also not made out. This is an appeal against acquittal. Unless the judgment of the court below is shown to be perverse, it is not for this court to reverse the same. If two view are possible and one view favours the accused, the same can be adopted by this court. As already stated, the main case itself has ended in acquittal. The occurrence is said to have happened a full ten years ago. No purpose will be served in reviving this stale issue. I find no merit in this appeal. It stands dismissed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1. I Additional District and Sessions Judge (PCR),
Trichirappalli
2. The Judicial Maigistrate No.2,
Tiruchirappalli
3. The Assistant Commissioner of Police,
Cantonment Police Station,
Trichirappalli.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to:

The Section Officer, (2 Copies),
Criminal Section, (records)
Madurai Bench of Madras High court, Madurai

+1 CC to Mr.R.J.KARTHICK, Advocate (SR-75273[F] dated 15/07/2019)

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skm

MK (07.08.2019) 3P 8C