



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date: 31.08.2019

CORAM :

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.A(MD).No.51 of 2009

C.Santhiyagu @ Marimuthu

... Appellant/Accused

Vs

The State, represented by the
Inspector of Police
Thiruvadanai Police Station
Ramanthapuram District

... Respondent/Complainant

Prayer: Appeal filed under Section 374(2) of Code of Criminal Procedure, against the conviction and sentence imposed upon him in Special Sessions Case No.80 of 2005 on the file of the III Additional District and Sessions Judge (Protection of Civil Rights), Madurai.

For Appellant

:Mrs.C.Jeya Indira Patel
Legal Aid Counsel

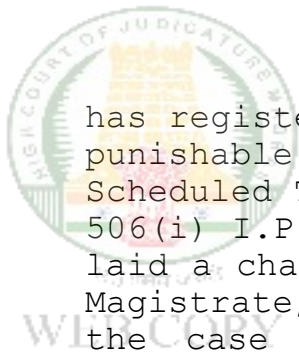
For Respondent

:Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl.Side)

J U D G M E N T

This appeal has been filed against the conviction and sentence imposed by the learned III Additional District and Sessions Judge (Protection of Civil Rights), Madurai in Special Sessions Case No.80 of 2005, dated 04.02.2009.

2.The case of the prosecution is that on 01.06.2004 at about 5.00 p.m., when the defacto complainant, Chinniah, who is cultivating brinjal in his land in Kurunthakudi Village, has brought it to weekly market, the accused asked his cycle for private trip, which was refused by the defacto complainant. Then, the accused has thrown upon the tube valve of the cycle, scolded the defacto complainant with filthy language by using his caste name, caused damages to the tune of Rs.100/- and criminally intimidated the defacto complainant by using aruval. Thereafter, based on the complaint given by the defacto complainant, the respondent police



has registered a case against the appellant/accused for the offence punishable under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Sections 427 and 506(i) I.P.C. After completing investigation, the respondent police laid a charge sheet before the learned District Munsif Cum Judicial Magistrate, Thiruvadanai. The learned Judicial Magistrate has taken the case on file in P.R.C.No.6 of 2004. After completing the formalities, since, the offence alleged to have committed by the accused is exclusively triable by the Court of Sessions and therefore, committed the case to the designated Court viz., III Additional District and Sessions Judge (PCR), Madurai.

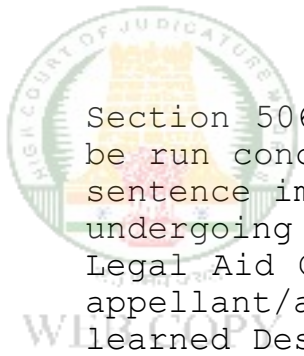
3.The learned Designated Judge has taken the case on file in Special S.C.No.80 of 2005 and after completing the formalities, framed the charge against the appellant/accused for the offences under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and under Sections 427 and 506(i) I.P.C.

4.During the trial, on the side of the prosecution, as many as 8 witnesses were examined, 7 documents were marked and no material object has been marked. After completing the evidence of prosecution witnesses, when incriminating circumstances were culled out from the prosecution witnesses put before the accused, he had denied as false. On the side of the defence, no oral and documentary evidence has been produced.

5.After completing the trial and hearing the arguments advanced on either side and also considering the oral and documentary evidence, the trial Judge found guilty of the appellant/accused for the offence punishable under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and under Section 506(i) I.P.C. He was convicted and sentenced to undergo six months rigorous imprisonment and to pay fine of Rs.1000/-, in default of which to undergo one month simple imprisonment for the offence under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and also convicted and sentenced to undergo six months Rigorous imprisonment and to pay a fine of Rs.500/-, in default of which to undergo 15 days simple imprisonment for the offence under Section 506(i) I.P.C. However, he was found not guilty and acquitted for the offence punishable under Section 427 I.P.C. Both sentence are ordered to be run concurrently.

6.Challenging the said Judgment of the Designated Court, the accused has filed the present appeal before this Court.

7.The learned Legal Aid Counsel appearing for the appellant/accused would submit that the trial Judge has imposed the sentence of imprisonment of six months for the offence under Section 3(i)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, and another six months for the offence under



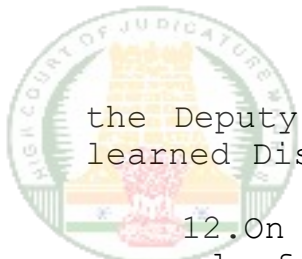
Section 506(i) I.P.C. Both sentence of imprisonment were ordered to be run concurrently. The appellant/accused has already undergone the sentence imposed by the learned Designated Judge and now he is still undergoing imprisonment in the Central Prison, Madurai. The learned Legal Aid Counsel further submitted that since the fact is that the appellant/accused has already undergone the sentence imposed by the learned Designated Judge, the appeal has become infructuous.

8.The learned Government Advocate (Crl.Side) appearing for the State would also submit that the appellant/accused has already undergone the sentence imposed by the learned Designated Judge.

9.Heard the learned counsel appearing for the appellant and the learned Government Advocate (Crl.Side) appearing for the State and also perused the materials available on record.

10.On a perusal of entire records, it is seen that the appellant/accused was charged for the offence punishable under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and under Sections, 427 and 506(i) I.P.C. After trial, the learned trial Judge found guilty for the offence under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and under Section 506(i) I.P.C and he was found not guilty for the offence under Section 427 I.P.C.

11.The P.W.1 has clearly stated about the occurrence and overtact against the appellant/accused and the involvement of the appellant in this case. Exhibit P.7 is the community certificate of P.W.1 issued by the Tahsildhar and it shows that the defacto complainant belongs to Scheduled Caste Community and Exhibit P.3 is the letter reporting the community of the accused, issued by P.W.6, Tahsildhar to that effect. Therefore, P.W.1 has clearly stated that the accused has scolded the defacto complainant with filthy language, named his caste and also degraded his community name in the public place and P.W.2 has corroborated the evidence of P.W.1. It is further seen that the P.W.3 and P.W.4 were also present at the time of occurrence and they have also corroborated the evidence of P.W.1. The Tahsildhar one who has issued the community certificate to the defacto complainant was examined as P.W.6 and he has clearly deposed that Exhibit P7 issued by him, shows that the defacto complainant belongs to the Scheduled Caste Community. Further the evidence of P.W.1 has categorically stated that the accused scolded the defacto complainant with filthy language, degraded and uttered his caste name in the public place. The evidence of P.W.1 clearly shows that the appellant/accused threatened the defacto complainant with dire consequence and hence, the defacto complainant has lodged a complaint before the P.W.7 and the complaint was marked as Exhibit P1. After that, P.W.7, the Inspector of Police registered the First Information Report and placed the matter before the P.W.8, the Deputy Superintendent of Police for further investigation. After investigating the matter,



the Deputy Superintendent of Police laid a charge sheet before the learned District Munsif Cum Judicial Magistrate, Thiruvadanai.

12. On reading of the evidence of P.W.1 to P.W.4 and on a perusal of entire records, this Court finds that the prosecution has proved its case beyond reasonable doubt and the Appellate Court has rightly convicted the appellant/accused and hence, there is no merit in the appeal. Therefore, the appeal is liable to be dismissed. The learned trial Judge has also given conviction to the appellant for the cogent and consistent reasons and the prosecution has also proved his case beyond reasonable doubt. Therefore, this Court does not find any merit in the case and there is no sound ground and reason to interfere with the Judgment of the trial Court. Accordingly, the Criminal Appeal is dismissed. Since, the appellant has already undergone the imprisonment he shall be released, if he is not required for any other case.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

msa

To

1. The III Additional District and Sessions Judge (PCR),
Madurai .

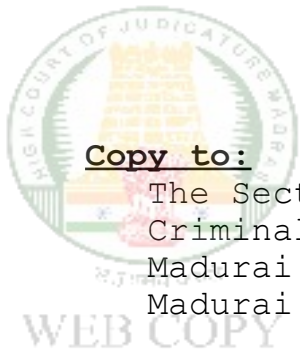
2. The Chief Judicial Magistrate,
Ramanathapuram.

3. The District Munsif Cum Judicial Magistrate
Thiruvadanai

4. The Inspector of Police
Thiruvadanai Police Station
Ramanathapuram District

5. The Superintendent,
Central Prison, Madurai.

6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



Copy to:

The Section Officer, (2 Copies)
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C. JEYA INDRA PATEL, Advocate (SR-84783[F] dated
03/09/2019)

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