



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2019

CORAM:

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHANCrl. A. (MD) No.289 of 2019

V.Nageshwari

.. Appellant/P.W.1

Vs.

1. Kuttralam @ Kannayiram
2. Jeevarathinam
3. Arokiyarani

.. Respondents/
Accused Nos.1 to 3

4. The Inspector of Police,
Abiramam Police Station,
Ramanathapuram District.
(Crime No.129 of 2006)

.. Respondent/Complainant

Prayer : This Criminal Appeal is filed under Section 374 r/w 401 of Cr.P.C., to call for the records in S.S.C.No.244 of 2009, dated 24.06.2011 on the file of the learned Principal Sessions Judge, Ramanathapuram, set aside the same and allow this Criminal Appeal.

For Appellant	: Mr.M.Subash Babu
For R-4	: Mr.A.Robinson, Government Advocate(Crl. Side).
For R-1 to R-3	: Mr.T.Muruganantham

JUDGMENT

The appellant is the defacto complainant in S.S.C.No.244 of 2009 on the file of the learned Principal Sessions Judge, Ramanathapuram. She is aggrieved by the impugned Judgment of acquittal.

2. The case of the prosecution is that on 08.12.2006 at about 08.00 a.m, there was a quarrel between the defacto complainant on the one hand and the accused on the other in the matter of fetching water in front of Abiramam Dhasbiya Hotel. The accused are said to have abused the defacto complainant by referring to her caste. The defacto complainant belongs to Scheduled Caste. In this regard, Crime No.129 of 2006 was registered on the file of Abiramam police station for the offence under Sections 294(b), 506(ii) r/w 3(1)(x) of the Scheduled Castes and Scheduled Tribes(Prevention of Atrocities) Act. Investigation was undertaken and final report was



filed. Cognizance of the offences was taken. The accused pleaded not guilty of the charges and claimed to be tried.

3. The prosecution examined as many as 11 witnesses and marked Ex.P.1 to Ex.P.7. On the side of the accused, no evidence was adduced. The learned trial Judge after consideration of the evidence on record, held that the prosecution failed to prove the charges beyond reasonable doubt and acquitted the accused, vide Judgment dated 24.06.2011. Challenging the same, this Criminal Revision has been filed.

4. Heard the learned counsel on either side.

5. The learned counsel appearing for the defacto complainant reiterated all the contentions set out in the memorandum of grounds. His specific argument is that the reasons given by the learned trial Judge are flimsy and therefore, the impugned Judgment deserves to be reversed.

6. The learned counsel appearing for the accused submitted that the impugned Judgment deserves to be sustained and wanted this Court to dismiss this Criminal appeal.

7. I carefully considered the rival contentions and perused the evidence on record.

8. The occurrence is said to have taken place on 08.12.2006 at 08.00 a.m. The police station is situated rather close by. It is not in dispute that within 10 minutes, one can reach the police station even by walk. But then, the complaint was lodged only on the next day at about 08.00 a.m. The learned counsel appearing for the appellant would claim that the husband of the appellant had gone for job and that he returned home only late night. That is how there was delay in lodging the complaint. The Court below took the view that this explanation was not convincing. The appellant could have given the complaint on the same night after her husband came home. The delay of more than 24 hours occasioned in lodging the complaint creates considerable doubt on the very occurrence itself.

9. I am of the view that the Court below took the correct view. It is quite natural that in the matter of fetching water from the public tap, quarrels used to erupt. There is even a specific Tamil expression to describe this. The learned trial Judge has taken the view that a petty quarrel had been given a communal colour. It was in that view, the learned trial Judge felt that P.W.3 and P.W.5 who also belong to the same community as that of the appellant could not be believed.

10. Admittedly, almost 13 years have elapsed, since the occurrence took place. I am of the view that it would be most unsafe to disturb the acquittal at this point of time. The appellant did not suffer any injury. Though she would claim that the first



accused was armed with Aruval and held out serious threats, the learned trial Judge has also observed that there is a discrepancy between the testimony of P.W.1 and that all the other witnesses. The view taken by the Court below cannot be said to be perverse. It would be improper to disturb the Judgment of acquittal.

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11. I find no ground to interfere with the Judgment passed by the Court below. The Criminal appeal stands dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar

To

1. The Principal Sessions Judge,
Ramanathapuram,
 2. The Inspector of Police,
Abiramam Police Station,
Ramanathapuram District.
 3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
 4. The Section Officer, Criminal Section, (2 Copies)
Madurai Bench of Madras High Court, Madurai.
- +1 CC to M/s.T.MURUGANANTHAM, Advocate (SR-74290[F] dated
09/07/2019)
- +1 CC to M/s.M.SUBASH BABU, Advocate (SR-74822[F] dated
11/07/2019)

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09.07.2019

pmu

MS/16.09.2019/3P.8C