



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on 26.09.2019

Pronounced on 16.10.2019

WEB COPY

CORAM:

THE HON'BLE MR. JUSTICE V.PARTHIBAN

Criminal Appeal (MD) No.343 of 2016

V.P.Kuppusamy

... Appellant /PW1

vs.

1.The Deputy Superintendent of Police,
O/o the Deputy Superintendent of Police,
Karur Sub-Division,
Karur District.

...Respondent/complainant

2.Kandasamy

3.Murugaiyan

4.Selvam @ Selvaraj

... Respondents/Accused 1 to 3

Criminal Appeal preferred under Section 372 of the Code of Criminal Procedure seeking to call for the records pertaining to the judgment in S.C.No.65 of 2014 dated 08.12.2015 on the file of the Principal Sessions Court, Karur in Crime No.114 of 2014 on the file of the respondent No.1 and set aside the same.

For appellant

:Mr.T.Lajapathy Roy

For respondents

:Mr.V.Neelakandan

Addl. Public Prosecutor (for R1)

Mr.S.Karthick (for R2 and R3)

Mr.C.Vetrian (for R4)

(Legal Aid Counsel)

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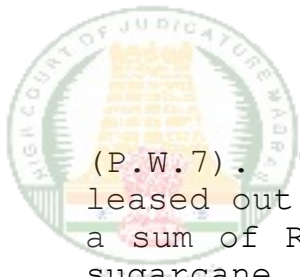
JUDGMENT

This Criminal Appeal is filed against the Judgment passed by the Principal Sessions Court, Karur in S.C.No.65 of 2014 dated 08.12.2015 acquitting the respondents 2 to 4/accused from the charges under Section 294(b), 294(b) r/w Section 3(1)(g)(r)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Ordinance, 2014 and Section 506(i) and 506(ii) of IPC.

2.The facts, which gave rise to the filing of the present appeal, are briefly stated herein.

(i) One Kuppusamy (P.W.1) belongs to Hindu, Pallar community as evidenced by community certificate (Ex.P.5) issued by Tahsildhar

<https://hcservices.ecourts.gov.in/hcservices/>



(P.W.7). The evidence of P.W.1 is that the first accused Kandasamy leased out his lands measuring about 10 Acres to him after receiving a sum of Rs.5,30,000/-. P.W.1 is cultivating the lands by raising sugarcane. He had also entered into a contract with EID Parry Company for supply of sugar cane. But however, P.W.1 could not cultivate the lands for two years due to failure of monsoon. On 02.07.2014 P.W.1 came to understand through one Murugan and Kannan that the first accused sold the lands without his permission and also removing the trees and bushes from the land leased out to him. Immediately, P.W.1 went to the lands under his cultivation and saw the first accused removing trees and bushes with a JCB machine. On enquiry, he was informed by the first respondent that he was taking back the land. At this, P.W.1 asked the first accused to return the lease amount paid to him a sum of Rs.5,30,000/-. The first accused refused to return the money and as he claimed that the money was set off.

(ii) Thereafter, it appears that P.W.1 had repeatedly demanded repayment of the amount, but the first accused abused him with filthy language mentioning his caste name. Thereafter, the first accused requested the driver of JCB machine to kill P.W.1 by running JCB machine over him and thereafter, challenged P.W.1 that he would go upto Supreme Court. Thereafter, the first accused snatched Aruval from the second accused and threatened P.W.1 with dire consequences. According to P.W.1, the incident was witnessed by all the villagers.

(iii) In the above said circumstances, P.W.1 went to Vangal Police Station and lodged a complaint (Ex.P.1) with the Sub-Inspector of Police, Vangal Police Station. According to him, the lease deed (Ex.P.2) was handed over to the police when the complaint was lodged.

3.On the side of the prosecution, 9 witnesses were examined and Exs.P.1 to 11 were marked. No material object was produced on the side of the prosecution and no oral or documentary evidence and material object have been produced on the side of the defence.

4.After analysing the materials and the oral evidence tendered by the witnesses, examined on behalf of the prosecution, the trial Court has finally held that the charges were not proved and acquitted the accused from all charges. As against which, the present appeal has been filed.

5.The trial Court has found that the evidence of P.W.1, P.W.3, P.W.5 and P.W.6 did not inspire confidence of this Court as their evidence did not fit in with their own version as stated before the police. According to the trial Court, there are serious material contradictions in the statements of P.W.1, P.W.2, P.W.3, P.W.4 and P.W.6. Therefore, the trial Court concluded that it was not safe to rely on their evidence. Moreover, the trial Court has also found that the presence of P.W.3 and P.W.4 were not mentioned in the complaint by P.W.1. In fact, the trial Court has also found that



P.W.3 was working under the first accused and removed from service for misappropriation of money belonging to the first accused and therefore, the trial Court had disbelieved the evidence given by P.W.3. P.W.4 was also found to be a relative of P.W.1 and the other so called independent witnesses were interested witnesses more specifically P.W.1. Therefore, the trial Court has held that the evidence of witnesses did not carry conviction.

6.Further, the incident is said to have been happened on 02.07.2014, but admittedly, the complaint was lodged to the jurisdictional police only on 04.07.2014. In the case on hand, the delay was very crucial and for which, there was no explanation by the de-facto complainant/P.W.1. In fact, according to P.W.1, the complaint was lodged on the same day i.e., on 02.07.2014, but in the evidence given by the Sub-Inspector of Police of the jurisdictional police station, he denied the lodging of the complaint on 02.07.2014. Therefore, the version of P.W.1 itself was incorrect and contrary to the fact. Moreover, the trial Court has also found that the FIR was sent to the Court only on 05.07.2014. Therefore, the trial Court concluded that there was not only delay in lodging FIR, but also in forwarding the same to the Magistrate, which was not satisfactorily explained. In fact, the trial Court has rightly held that the delay in lodging the complaint quite often results in manipulation. In fact, it was also found that the police station is located within one kilometer from the place of occurrence and therefore, the trial Court has entertained the doubt regarding the genuineness of the FIR and the prosecution version becomes unreliable. In fact, the trial Court has also found that the evidence tendered by the P.W.2, P.W.4 and P.W.6 did not spell out anything about the uttering of filthy language against P.W.1 by the second and third accused. In fact, it was also admitted that the third accused also belongs to Pallar community as evidenced by the community certificate (Ex.P.8). Likewise, the trial Court found that there was several material contradictions and found ultimately that there was not iota of evidence in connection with the accused for the charges framed against them. The trial Court also found that Rule 7(2) provides for filing of charge sheet within 30 days which period included the period of investigation and filing of charge sheet. In this case, the Investigation Officer took up the investigation on 05.07.2014 and the charge sheet was filed only on 11.09.2014, which meant that more than 60 days have lapsed to complete the investigation and filing of the charge sheet.

7.On the other hand, the trial Court held that the charges were not established at all in the trial and the complaint itself was found to be not genuine in view of the delay in filing the FIR after two days and also forwarded the same to the Court after delay of one day.



8. Although the learned counsel appearing for the revision petitioner argued the case that the trial Court had erred in acquitting the accused, the learned counsel is unable to point out material irregularity or legal infirmity in the order passed by the trial Court. Apart from the above, the learned counsel would submit that the period of delay in filing the charge sheet as provided under Rule 7(2) of the Act, is only to extend the benefit of the earlier conclusion of trial in respect of the cases attracting the provisions of SC/ST Act. It is certainly no bar for completion of investigation and filing of charge sheet. Therefore, he would submit that the bar provided in the Act was not to be read against the de-facto complainant as it would defeat the scheme of the Act, if such construction is adopted by the Courts. In any event, this Court does not wish to enter into the controversy in this case, for the simple reason that the trial Court has acquitted the accused on merits after analysing the evidence let in before it. The acquittal of the accused is on account of belated filing of FIR and also on merits.

9. This Court on consideration of the conclusion reached by the trial Court, ultimately is in agreement with the conclusion. When the trial Court has found that there were so many material contradictions in the case of prosecution and also doubted very genuineness of the FIR, after the thorough analysis, the trial Court has passed a detailed order acquitting the accused. The reasons which were the basis of the trial Court's conclusion are well founded and do not call for any interference at all. Being an appellate Court entertaining of the appeal is warranted only if the finding of the trial Court deserves interference. But in this case, this Court finds that the findings of the trial Court is perfectly in order and does not suffer from any infirmity at all.

10. For the above said reasons, this Court finds the appeal is without merits and therefore, the same has to be dismissed. Hence, the appeal is dismissed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Principal Sessions Judge,
Karur.



2.The Deputy Superintendent of Police,
O/o the Deputy Superintendent of Police,
Karur Sub-Division,
Karur District.

3. The Judicial Magistrate No.II,
Karur.

4. The District Collector, Karur.

5. The Director General of police,
Mylapore, Chennai.

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.S.KARTHIK, Advocate (SR-92200[F] dated 16/10/2019)

+1 CC to M/s.C.VETRIAN, Advocate (SR-92373[F] dated 17/10/2019)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-92646[F] dated
17/10/2019)

Judgment made in
Criminal Appeal (MD) No.343 of 2016
16.10.2019

skn
VB(25.10.2019) 5P 12C