



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2019

CORAM:

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl. R.C.(MD)No.315 of 2011

1. Arthur Selvakumar
2. Paulpandi
3. Ayyadurai
4. Baskar

.. Petitioners/Appellants/
Accused Nos.2 to 5

Vs.

State represented by,
The Sub Inspector of Police,
Palavoor Police Station,
Palavoor,
Tirunelveli District.

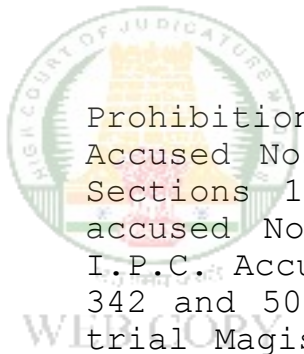
.. Respondent/Respondent/
Complainant

Prayer : This Criminal Revision is filed under Section 397 and 401 of Cr.P.C., to call for the records relating to the Judgment in Crl.A.No.41 of 2009 on the file of the Additional Sessions Judge/Fast Track Court No.II, Tirunelveli dated 01.07.2010 modifying the conviction for the offence under Sections 323 and 342 of I.P.C. and imposing fine of Rs.1,000/- for the first petitioner in default one month Simple Imprisonment and imposing a fine of Rs.1,000/- each to the petitioner for the offence under Section 342 of I.P.C. in default two months Rigorous Imprisonment by the Judgment in C.C.No.50 of 2006 on the file of the learned Judicial Magistrate, Valliyoor dated 23.06.2009 and set aside the same.

For Petitioners : Mr.V.Sasikumar
For Respondent : Mr.A.Robinson,
Government Advocate(Crl. Side)

ORDER

The Revision petitioners herein along with accused No.1 Chellappa were tried in C.C.No.50 of 2006 on the file of the learned Judicial Magistrate, Valliyoor, for the offence under Sections 147, 342, 323 and 506(i) of I.P.C. along with Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Ordinance Act, 2003. Accused No.1 was charged for the offence under Sections 147, 342, 323 and 506(i) of I.P.C. along with Section 4 of Tamil Nadu



Prohibition of Charging Exorbitant Interest Ordinance Act, 2003. Accused Nos.2 and 6 were charged in respect of the offence under Sections 147, 323, 342 and 506(i) of I.P.C. The charges against accused Nos.3 and 4 were under Sections 147, 342 and 506(i) of I.P.C. Accused No.5 was charged for the offence under Sections 147, 342 and 506(i) of I.P.C. By Judgment dated 23.06.2009, the learned trial Magistrate convicted accused Nos.1 and 2 of the charge under Sections 323 and 342 of I.P.C., while accused Nos.3 to 5 were found guilty of the offence under Section 342 of I.P.C. They were acquitted in respect of all the other charges. Accused No.1 was sentenced to 6 months Rigorous Imprisonment each and levied with a fine of Rs.1,000/- each for the offence under Section 323 and 342 of I.P.C. Likewise accused No.2 was sentenced to undergo 6 months Rigorous Imprisonment each and he was also levied with a fine of Rs.1,000/- each for the offence under Sections 323 and 342 of I.P.C. Accused Nos.3 to 5 were sentenced to pay fine alone. This Judgment of the learned trial Magistrate was partly allowed by the first appellate Court in C.A.No.41 of 2009 on the file of the learned Sessions Judge, Fast Track Court No.2, Tirunelveli, vide Judgment dated 01.07.2010. As regards the sentence of imprisonment, the same was set aside. In other words, the petitioners were sentenced to pay the fine alone. The petitioners remitted the fine amount. Challenging the Judgments of the Courts below, this Criminal Revision has been filed.

2. Even during the pendency of the Revision case, accused No.1 passed away. The learned counsel appearing for the petitioners reiterated the contentions set out in the memorandum of grounds.

3. One other ground taken in the memorandum is that the first appellate Court ought to have considered the case on merits and ought not to have considered the counsel's oral request and imposed the fine.

4. I am not in a position to agree with this contention. Before the first appellate Court, the counsel made a specific request. The Court proceeded in the matter on that basis. The approach of the first appellate Court cannot be faulted. However, before me, the learned counsel appearing for the Revision petitioners would submit that the reason for filing this Revision case is that petitioners 1 and 3 had studied Teacher Training course and are looking for public employment. This conviction may operate against them. This is the reason for filing this Criminal Revision.

5. I am of the view that the concern expressed by the learned counsel appearing for the petitioners can be addressed by dealing the petitioners 1 and 3 under the provisions of the Probation of Offenders Act. This Court grants the benefit available to petitioners 1 and 3 under Section 3 of the Probation of Offenders Act. Petitioners 1 and 3 will not suffer any disadvantage for not being attached to the impugned conviction.



6. With this direction, the Criminal Revision stands partly allowed. No costs.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar

To

1. The Additional Sessions Judge/
Fast Track Court No.II, Tirunelveli.
2. The Judicial Magistrate,
Valliyoor.
- 3.The Section Officer,
Criminal Section, (Recrods)
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

+1 CC to M/s.V.SASI KUMAR, Advocate (SR-70787[F] dated 24/06/2019

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pmu

MS/01.10.2019/3P.6C