

IN THE HIGH COURT OF JUDICATURE AT MADRAS
RESERVED ON : 21.12.2020
PRONOUNCED ON : 30.12.2020
CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl A.No.139 of 2018

A.Vanajamuniyan

.. Appellant

Vs.

A.G.S.Ravi @ Rajagopal

... Respondent

Prayer: This Criminal Appeal is filed under Section 378 of the Code of Criminal Procedure, against the Judgment of acquittal passed by the learned Principal District and Sessions Judge, Cuddalore Division, Cuddalore in S.C.No.391 of 2008 dated 02.06.2017.

For Appellant : Mr.V.Rajamohan

For Respondent : Ms.Jayanthi Venkatesh

J U D G M E N T

This criminal appeal is filed against the Judgment of the learned Principal Sessions Judge, Cuddalore in S.C.No.391 of 2008.

2. The appellant filed a private complaint before the learned Judicial Magistrate, Parangipettai under Section 200 of the Criminal procedure code for the offence alleged to have been committed by the accused under Sections 294 (b), 323, 342 of IPC and Sections 7 (1)d, 17 (d), 3 (V), 3(x) of SC and SC (POA) Act.

3.It is the case of the appellant that there was previous enmity between the appellant and the accused with regard to purchase of a plot and he filed a suit in O.S.No.10 of 2003 which is pending before the District Munsif Court, Chidambaram. On 16.05.2007, when the appellant was returning after purchasing medicine, the accused called the appellant by his name and addressed him without giving proper respect and scolded him in filthy language denigrating his caste and slapped him on his cheeks. Hence, the appellant gave a complaint to the police. It appears that no case was registered in the police station. On the other hand a criminal case was registered against the appellant in Crime No.103 of 2007, Buvanagiri Police Station under Sections 294, 323, 506 II of IPC. He gave representation

to the Inspector of Police and Superintendent of Police on 16.05.2007 with regard to the occurrence and non registration of the complaint. Therefore, this private complaint was filed.

4. After complying the necessary formalities, the private complaint was committed to the Learned Principal Sessions Court, Cuddalore. The Principal Sessions Judge, Cuddalore framed Charges under Sections 341, 294 (b), 323 of IPC read with Sections 3 (1) (x) of SC and SC (POA) Act and conducted the trial.

5. During trial, P.W.1 to P.W.3 had been examined and Exs.P1 to P15 were marked. No witness was examined on the side of the accused. Ex.D1 and D2 were marked.

6. P.W.1 is the complainant and victim in this case. P.W.2 and P.W.3 are the eyewitnesses. It seen from the evidence of P.W.1 that on 16.05.2007 at about 10.30 pm when he was returning from the medical shop and near Buvanagiri Police Station accused told him that the plot purchased by him in Thillai Nagar is a Poramboke Poonga and demanded Rs.25,000/- for giving no objection to the construction of the house. When P.W.1 refused to pay the amount, there was a wordy quarrel resulting in a police complaint in CSR No.126 of 2003 against the accused. Since police have not taken any action, PW1 filed a petition before the High Court and thereafter FIR had been registered. There is a suit in O.S.No.10 of 2003 pending with regard to taking articles illegally from the possession of PW1. Accused was pressurising him to withdraw the civil suit. When PW1 refused to withdraw the suit, accused developed enmity against him. When things being so, on the date of the occurrence, the accused called him by caste name 'Vantharakudi payale madu thinnura parapayale. I am a member of Panchayat. You don't care me" When P.W1 insisted him to give respect, the accused, who was under the influence of alcohol, he scolded him in a filthy language, pulled his shirt, slapped him on his cheeks and punched on his chest. As a result, he fell down. Murugavel s/o Rajamanickam and Murugavel s/o Kaliyamurthy helped him to regain his ground. Then he gave a complaint to the police station on the same night. When he went to police station next day, the police informed him that the accused had given a complaint against him stating that he stabbed the accused with a knife. He got anticipatory bail in the High Court of Madras in that case. When he enquired about his complaint, he came to know that his complaint was not registered at all. Therefore, he sent complaints to various higher authorities. Copy of the complaint given before the Parangipettai Magistrate Court, Community Certificate and other documents are produced as Exs.P1 to P15. P.W.2 and P.W.3, the alleged eyewitnesses to the occurrence and supported the case of P.W.1 with regard to the

usage of filthy language and denigration of PW1 with his caste name by the accused. On considering the oral and documentary evidence, the learned trial judge found that the charges against the accused is not proved and acquitted the accused. Against the said Judgement, this criminal appeal is filed.

7. The learned counsel appearing for the appellant submitted that the learned trial Judge has not properly appreciated the evidence and considered the purpose behind the enactment of Schedule Caste and Schedule Tribe Prevention of Atrocities Act. The trial Court failed to note that the complaint given by the appellant against the accused was not registered at all by the police. The findings of the trial court that the complainant has developed his case by including the caste name in the private complaint, which was not stated in the original complaint given to the police station, is not true. It was stated that even in the original complaint, he mentioned about the words used to denigrate him. The evidence of the complaint is supported by P.W. 2 and PW 3, the independent eyewitness. The finding of the trial Court that the accused did not use caste name is contrary to the evidence of P.W.1 to P.W3. Whatever was said in the evidence with regard to words used by the accused amounts to denigrating the complainant by his caste name. However, without considering all these aspects, the trial Court recorded unmerited acquittal. Therefore, the learned counsel appearing for the appellant prays for setting aside the judgment of the trial court and for convicting the accused under the relevant provisions of law.

8. In response to the submissions made by the learned counsel appearing for the appellant, the learned counsel appearing for the accused/respondent submitted that there is no specific mention about the exact words used for denigrating the complainant by his caste name in Ex.P3 complaint, which was the foundation and origin to the issue involved in this case. Only in the private complaint, the complainant improved his version by including his caste name and the name of P.W2 and P.W3 as witnesses. Reference to caste and names of PW2 and PW3 have not been mentioned in Ex.P3 complaint. Rather it was alleged that two police man intervened in the fight between the P.W.1 and the accused. Therefore this creates a doubt that PW2 and P.W3 who belong to the same community as that of the complainant, had been introduced to give false evidence against the accused. The complainant is in the habit of giving false complaints against many persons under SC and ST (POA) Act. There is no sufficient material against the respondent and in fact the materials produced by the complainant have been created and introduced for the purpose of this case. The learned trial Judge rightly acquitted the accused. Therefore, the learned counsel appearing for the respondent prays for confirmation of the judgment of the

trial court and for dismissal of this criminal appeal.

9. Point for consideration is that whether the judgment of the trial Court suffers from any in-correctness, illegality of impropriety in recording the judgement of the acquittal in this case?

10. The main argument advanced by the learned counsel for the appellant is that the trial Court has not properly appreciated the evidence in the light of the scope and object of SC and ST (POA) Act. It is true that this Act was enacted with the avowed object preventing the atrocities against the people belong to SC and ST community. However, it is for prosecution to establish the charges against the accused beyond reasonable doubt. Merely because the SC and ST (POA) Act has laudable object we cannot record the conviction unless the case is proved by unassailable evidence. That this case was foisted against the respondent was highlighted by the learned counsel appearing for the respondent by drawing the attention of this Court to Ex.P3, which reflects the origin of the dispute between the appellant and the respondent.

11. It is the case of the respondent that there is nothing stated in Ex.P3 complaint which came into existence at the earliest point of time, that the complainant was abused by the accused denigrating his caste and P.W.2 and P.W.3 were witnesses to that occurrence. Only in the private complaint, the appellant mentioned about the caste name said to have been used by the respondent. It is an improved version, included with much after thought just to make out a case under SC and ST (POA) Act. Ex.P3 is the complaint dated 16.05.2007 alleged to have been given by the complainant / appellant to the Superintendent and Inspector of Police, Buvanagiri Police Station. It refers about the earlier proceedings between the complainant and the respondent. With regard to the incident involved in this case, it was alleged that on 16.05.2007 at about 10.30 pm, the complainant had gone to purchase medicine in the medical shop and when he was returning from medical shop, the accused called him by name. When he opposed the accused, the accused told him he was a member of Panchayat and if he would not come to listen him, he should not be allowed to live in Thillai Nagar and also scolded him in filthy language by calling his caste. He also attacked him. The Police, who were on duty intervened in the quarrel between them and separated them. This is what, had been said about the incident on 16.05.2007 in the complaint dated 16.05.2007.

12. As rightly pointed out by the learned counsel appearing for the respondent, there is no specific mention about the caste name being used while scolding the accused in this complaint. However, during the course of giving evidence, P.W.1, the

complainant elaborated and improved his version and mentioned specific caste name alleged to have been used by the accused/respondent. Though P.W.2 and P.W.3 supported the case of P.W.1, it is seen from Ex.P3 that the presence of P.W.2 and P.W.3 at the time of occurrence is not stated in Ex.P3. Therefore, the claim of the respondent that P.W.2 and P.W.3 had been introduced to support the false case of the complainant cannot be ruled out. The Police Constables who intervened between the appellant and the accused and separated them from fighting with each other also not examined by the complainant/appellant. Admittedly P.W.2 and P.W.3 belonged to the same caste as that of P.W.1. Therefore, the possibility of their lending helping hand to P.W.1 by giving false evidence cannot be ruled out.

13. It is seen from the evidence of P.W.1 that he was involved in lot of litigations. When he was asked about launching prosecution under the SC and ST (POA) Act against many persons, he refused to give complaint under SC and ST (POA) Act, but stated that he has sent complaint against them. He also admitted that he did not mention in the complaint given higher authorities as to the name of the caste with which the accused scolded him. Though the documents produced as exhibits show that the effort taken by the complainant to pursue his complaint to various authorities. In the absence of reliable evidence, these documents would no way help in advancing the case of the complainant. It is seen from the evidence of P.W.2 and P.W.3 that they are interested witnesses and belong to the caste of the complainant. Their names were not mentioned in Ex.P3. The name of specific caste with which P.W.1 was denigrated was not specifically mentioned in Ex.P3 complaint. Therefore, the very basis for the case of the complainant suffers from lack of material particulars. When the basis of the case is not reliable, nothing can be built from there. The trial court has properly appreciated the evidence and rightly come to the conclusion that the complainant had improved his case only with a view to lodge a private complaint and therefore acquitted the accused. There is no illegality, impropriety or in correctness in the decision of the learned trial judge.

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14. In view of the above, this court finds no reason to interfere with the judgement of the trial court. Therefore, this court confirms the judgment of the trial court in acquitting the respondent/ accused and dismissing the private complaint and the criminal appeal is dismissed.

Sd/-

Assistant Registrar (CCC)

/true copy/

Sub Assistant Registrar

vum

To

The Principal District and Sessions Judge,
Cuddalore Division, Cuddalore.

+1 cc to Mr.N.Mohideen Basha Advocate sr16

+1 cc to Mr.Jayanthi Advocate sr37

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