



WEB COPY

Crl.R.C.[MD]No.239 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.R.C.[MD]No.239 of 2015

1.E.Chellam
2.K.Madhu
3.M.Murugan
4.K.Kalidhas
5.N.Murugan

..Revision Petitioners/
Appellants 1,2,3,5 & 7/
Accused 1,4,5,7 & 10

Vs.

The State of Tamil Nadu,
Rep. by the Sub-Inspector of Police,
Eraniel Police Station,
Kanyakumari District.

..Respondent /Respondent/
Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C., praying to allow this Criminal Revision Petition and set aside the judgment and conviction imposed in C.A.No.224 of 2004 by the Principal Sessions Judge, Kanyakumari District, Nagercoil dated 27.03.2015, modifying the Judgment of conviction imposed in C.C.No.344 of 2002, on the file of the Principal District Munsif cum Judicial Magistrate, Eraniel dated 23.09.2004.

For Petitioners : Mr.V.Kathirvelu
Senior Counsel
for Mr.K.Prabhu

For Respondent : Mrs.S.Bharathi
Government Advocate [Crl. Side]



WEB COPY

ORDER

This Criminal Revision Petition is filed by the accused against the judgment and conviction imposed in C.A.No.224 of 2004 by the Principal Sessions Judge, Kanyakumari District, Nagercoil dated 27.03.2015, modifying the Judgment of conviction imposed in C.C.No.344 of 2002, on the file of the Principal District Munsif cum Judicial Magistrate, Eraniel dated 23.09.2004.

2.For the sake of convenience, the parties are referred by their ranking before the trial Court.

3.The facts, shorn of unnecessary details, are briefly stated hereunder:-

3.1.P.W.1, Manikandeswarakumaran is a resident of Kattimancode. A1 is the President of the said Kattimancode Village Committee and A2 is the District President of Krishnavaka Community. The leaders of Krishnavaka community of Kattimancode and surrounding villages, excommunicated P.W.1 and his family members for having violated the community customs and farm workers were not allowed to work for them. Against the said condition, one Kalidhas son of Arumugham Pillai worked in the farm of P.W.1. Infuriated over this, on 20.04.1995 at 18.30 hrs, A1 along with five others assaulted Kalidhas. Immediately, P.W.1, who was a witness took the injured Kalidhas to Eraniel Police Station and preferred a complaint.

3.2.Infuriated over the said act of preferring a complaint, on 23.04.1995, A1 to A12 and 20 others trespassed into the house of P.W.1 with deadly weapons like Vettaruval, Iron rod, stocks and stones and committed rioting and the accused attacked the inmates, especially P.W.1. As a result of the said attack, P.W.1 sustained grievous injuries.



3.3. Accordingly, P.W.1 registered a case in Crime No.159 of 1995 against the accused for the following offences:

Sl.No	Accused	Offences
1.	A1	147, 148, 452, 326, 427 IPC and 324, 323 r/w. 149 IPC
2.	A2	147, 148, 452, 324, 427 IPC and 326, 323 r/w. 149 IPC
3.	A3	147, 148, 452, 323, 427 IPC and 324, 326 r/w. 149 IPC
4.	A4	147, 148, 452, 326, 427 IPC and 324, 323 r/w. 149 IPC
5.	A5 to A7	147, 148, 452, 323, 427 IPC and 326, 324 r/w. 149 IPC
6.	A9 to A12	147, 148, 452, 427 IPC and 323, 324, 326 r/w. 149 IPC

Hence, Ex.P.6, FIR was prepared and the printed FIR was forwarded to the jurisdictional Court as also the higher officials.

3.4. P.W.13, the Sub-Inspector of Police, took up the investigation. He went to the scene of occurrence and prepared the observation mahazar, Ex.P-3 and drew the rough sketch, Ex.P-9. P.W.13 also seized M.Os.1 to 5, under the cover of mahazar. He examined the witnesses and recorded their statements. On 25.04.1995, P.W.13 arrested A1, A4, A5, A6 and some others and they voluntarily gave a confession statement, Exs.P-11 & 12, in the presence of witnesses. P.W.13 examined the doctors, P.W.s 11 and 12, who treated P.W.1 and issued the wound certificate Ex.P-4. After completing the investigation, P.W.13 filed the final report against the accused for the aforementioned offences.

3.5. On the appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with and the case was committed to the Court of the Principal District Munsif cum Judicial Magistrate, Eraniel.



3.6.To prove the case, the prosecution examined P.W.s 1 to 15, marked Exs.P-1 to P-14 and M.O.s 1 to 5. When the accused were questioned u/s 313 Cr.P.C., about the incriminating circumstances appearing against them, they denied the same. No witness was examined nor any document marked on the side of the accused.

3.7.The trial Court, on the basis of the oral and documentary evidence, convicted and sentenced the accused / petitioners herein in the following terms:

<i>Accused</i>	<i>Convicted for the offence under Sections</i>	<i>Sentence Imposed</i>
A1 to A8, A10 and A12	147, 148, 427, 323 r/w. 149 IPC	Simple imprisonment for three [3] months each for each count.
	324 IPC	Simple imprisonment for four [4] months each.
	452 IPC	Simple imprisonment for five [5] months and to pay a fine of Rs.500/-, in default to undergo simple imprisonment for two [2] months each.
	326 IPC	Simple imprisonment for fifteen [15] months and to pay a fine of Rs.1000/-, in default to undergo simple imprisonment for two [2] months each.

The sentences were ordered to run concurrently. Challenging the legality of the said conviction and sentence, the accused / petitioners herein filed an appeal before the Principal Sessions Judge, Kanyakumari. The lower appellate Court, affirmed the conviction, however, set aside the sentence with regard to A12 alone. Assailing the said order of conviction, the petitioners have come up with the present revision.



4.Learned Senior Counsel appearing for the accused / petitioners would submit that though the prosecution has examined as many as 15 witnesses, however, some allegations were made against A1, A4, A5 and A7 but, no allegation was made against A10. He further submitted that all the accused are aged persons and hence, without going into the merits of the case, this Court shall alter the sentence, considering the passage of time, since the occurrence took place in the year 1995 and putting the accused on bars at this length of time will adversely affect them. He further prayed that this Court shall modify the sentence by imposing fine amount against the accused persons.

5.The learned Government Advocate [Crl. Side] appearing for the State has no serious objection for the request made by the learned Senior Counsel appearing for the accused / petitioners. However, learned Government Advocate requests this Court to confirm the conviction passed by the Courts below.

6.This Court bestowed its best attention to the contentions advanced by the learned Senior Counsel for the accused / petitioners and the learned Government Advocate [Crl. Side] for the State and also perused the evidences and the materials available on record.

7.Considering the facts and circumstances of the case, in order to prove the prosecution case, the prosecution examined as many as 15 witnesses and marked 14 exhibits and 5 material objects. P.W.1 is the de-facto complainant who sustained grievous injuries and P.Ws.2 and 3 are brothers of P.W.1. All those persons were attacked by the accused persons. Further, neighbouring witnesses were examined as P.Ws.5, 6 and 9 and their evidences corroborate with the injured victims. Further, the material objects like Vettaruval and Kattukambu were recovered under the recovery mahazar Exs.P.8 and 10. All these evidences clearly corroborate with each other.



Crl.R.C.[MD]No.239 of 2015

8.This Court, on an entire analysis of the materials available on record, coupled with the testimonies of the witnesses, is in concurrence with the findings arrived at by the Courts below and the same does not warrant any interference at the hands of this Court. Accordingly, the judgment of the Lower Appellate Court is confirmed. However, considering the facts and circumstances of the case and considering the request made by the learned Senior Counsel for the accused / petitioners, admittedly the occurrence took place in the year 1995 and that all the accused are now aged more than 70 years and this Court bearing in mind that the victim sustained grievous injuries, finds it appropriate to considerably reduce the sentence from fifteen [15] months to three [3] months, subject to payment of a compensation of Rs.25,000/-, Rs.20,000/-, Rs.15,000/-, Rs.10,000/-, Rs.5,000/-, by the accused A1, A4, A5, A7 and A10, respectively and the period of sentence already undergone by the accused shall be given set off under Section 428 Cr.P.C.

9.Accordingly, this Criminal Revision Case fails and the same is dismissed as modified, confirming the judgment dated 27.03.2015, passed by the learned Principal Sessions Judge, Kanyakumari District, in C.A.No.224 of 2004.

Sd/-

Assistant Registrar ()

//True Copy//

/ /2020

Sub Assistant Registrar(CS)

To

1.The Principal Sessions Judge,
Kanyakumari District,
Nagercoil.



Crl.R.C.[MD]No.239 of 2015

WEB COPY

2.The Principal District Munsif
cum Judicial Magistrate,
Eraniel.

3.The Judicial Magistrate,
Kanyakumari at Nagercoil.

4.The Sub-Inspector of Police,
The State of Tamil Nadu,
Eraniel Police Station,
Kanyakumari District.

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

Copy to : The Section Officer,
Criminal Section [Records],
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.K.Prabhu, Advocate Sr.No.11484

AKM/08.05.2020 /7P-8C/

ORDER MADE IN
CRL.R.C.[MD]No.239 of 2015