



BAIL SLIP

The Appellant/Accused namely R.Ravanan, S/o.Renukounder was directed to be released on bail in and by the order of this Court dated 09.05.2019 and made in Crl.M.P.No.6533 of 2019 in Crl.R.C.No.426 of 2019 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.09.2021

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.426 of 2019

Ravanan

.. Petitioner/Accused

Vs

The State rep by
The Sub-Inspector of Police
Moongilduraipattu Police Station
Moongilduraipattu
(Crime No.72 of 2014)

..Respondent/Complainant

Prayer: Criminal Revision filed under Sections 397 and 401 of Cr.P.C., against the order passed by III Additional District and Sessions Judge, Kallakurichi in C.A.No.7 of 2019 dated 18.02.2019 confirming the judgment of the trial court in C.C.No.235 of 2014 dated 18.12.2018 on the file of the Judicial Magistrate Court of Sankarapuram.

For Revision Petitioner : Mr.N.Manokaran for
Mr.R.Muniyapparaj

For respondent : Mr.S.Sugendran
Govt. Advocate(Crl.Side)

O R D E R

This Criminal Revision is filed against the order passed by III Additional District and Sessions Judge, Kallakurichi in C.A.No.7 of 2019 dated 18.02.2019 confirming the judgment of the trial court in C.C.No.235 of 2014 dated 18.12.2018 on the file of the Judicial Magistrate Court of Sankarapuram.



2. The respondent police registered the case against the petitioner for the offence under Sections 294(b), 324 and 506 (ii) IPC. After investigation, laid the charge sheet before the Judicial Magistrate, Sankarapuram and taken the charge sheet on file in C.C.235 of 2014 and after trial, convicted the petitioner/accused for the offence under Section 324 IPC and sentenced to undergo one year simple imprisonment. However, the Judicial Magistrate found that the petitioner is not guilty for offence under Sections 294(b) and 506(ii) IPC and acquitted from the said charges. Challenging the said judgment of conviction and sentence, the petitioner filed appeal before the Principal District and Sessions Judge, Villupuram. The Principal District and Sessions Judge taken the appeal on file in CrI.A.No.7 of 2019 and made over the case to the III Additional District and Sessions Judge, Kallakurichi. The III Additional District and Sessions Judge, after hearing the arguments, confirmed the judgment passed by the trial court and dismissed the appeal. Challenging the same, the present revision is filed before this court.

3. (a) Mr.N.Manokaran, learned counsel appearing for the petitioner submits that there is no independent witness and P.W.1 is the mother and P.W.4 is the injured witness. No other independent witness was examined and the prosecution has failed to prove the case beyond reasonable doubt. Even the medical evidence does not corroborate the case of the prosecution. Even P.W.2 stated that with some iron weapon, the petitioner attacked, but not stated that the weapon as koduval. Based on the evidence of P.W.4 injured witness, P.W.9 doctor and Ex.P.4 Wound certificate, the trial Judge found that the petitioner attacked P.W.4 and caused injuries. However, the trial Judge found 506(ii) offence is not made out and found that the petitioner is guilty for the offence under Section 324 IPC. So, without any records, except the opinion of the doctor, the trial Judge convicted the petitioner.

(b). Though the petitioner filed appeal, the appellate court failed to follow the procedures and has not appreciated the evidence in proper perspective. The appellate court is a fact finding court, it has to reappreciate the evidence. But, without following the procedures and exercising the power of the appellate court, the appellate court simply extracted the evidence of P.W.2 P.W.4 and P.W.6 and confirmed the sentence and has failed to reappreciate the evidence and give an independent finding. Therefore, the judgment of the appellate court is perverse and hence the same is liable to be set aside. Further, the learned counsel would submit that the petitioner and injured witness are neighbours and belong to people of the same village and in the heated moment, without any premeditation and



intention, committed the offence. Already the petitioner has undergone incarceration for more than 4 months therefore, the sentence is not proportionate to the injury caused and there is no minimum sentence prescribed in the section which clearly shows that there is no serious gravity of offence involved and hence, sentence can be modified.

4. The learned Government Advocate (Crl.Side) would submit that the injured witness was P.W.4 and he deposed about the incident that he sustained injury and doctor was examined as P.W.9. He has clearly deposed about the injury sustained by the injured witness P.W.4 and the wound certificate is marked as Ex.P.4. The trial court, on a finding that a combined reading of evidence of PW4/injured witness and P.W.9/doctor and the wound certificate issued by him which is marked as Ex.P.4 would go to show that the prosecution has proved the case beyond reasonable doubt, though acquitted the petitioner for the offence under Section 294(b) IPC and also under Section 506(ii) IPC, however, convicted the petitioner only under Section 324 IPC, by taking into consideration the weapons used by the petitioner for attacking the injured witness and also the injuries sustained by P.W.4. Therefore, there is no merit in the revision petition. The appellate court appreciated the evidence and since it is a concurrent judgment, this court need not go into each and every aspects to differ with the findings of the trial court. The appellate court is a fact finding court. The appellate court has reappreciated the entire evidence and does not find any reason to interfere with the finding of the trial court. In order to concur with the judgment of the trial court, the appellate court extracted the relevant portion of the evidence of P.W.1, P.W.4 and P.W.9 and no prejudice is caused to the petitioner. Therefore the revision is to be dismissed.

5. Heard and perused the records.

6. The respondent police registered the case for the offence under Section 294(b), 324 and 506(ii) IPC. The trial court after trial, acquitted the petitioner for offence under Sections 294 (b) and 506(ii) IPC, however, convicted him for the offence under Section 324 and sentenced to undergo 12 months and no fine was imposed.

7. Challenging the same, the petitioner filed appeal before the Sessions Judge. The Sessions Judge also dismissed the appeal and confirmed the judgment of the trial court.



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8. A reading of the materials would go to show that the injured witness was examined as P.W.4 and the medical officer was examined as P.W.9 and wound certificate was marked as Ex.P.4. The petitioner was convicted for offence under Section 324 IPC. For conviction under Section 324 IPC, it is only the evidence of the injured witness has to be taken into consideration. No doubt corroboration with the medical evidence is necessary, for which purpose, the prosecution examined the doctor as P.W.9 and wound certificate issued by him was marked as Ex.P.4. A combined reading of evidence of P.W.4 and P.W.9 along with medical evidence viz., wound certificate/Ex.P.4 issued by doctor P.W.9 corroborated the evidence of P.W.4.

9. While exercising revisional jurisdiction, this court has to see as to whether there is any perversity in the appreciation of evidence by both the courts below but this court cannot exercise the power of either the trial court or the appellate court. The revisional court cannot reappraise the entire evidence and give an independent finding on facts. It is settled proposition of law that if the appellate court finds that the trial court has gone into each and every aspects and given a reasoned finding, it has no reason to differ with the judgment of the trial court but to point out the facts and findings while recording the concurrent finding. This court does not find any perversity in the judgment of the courts below and there is no reason to interfere with the conviction passed by the courts below. However, considering the facts and circumstances of the case and that the petitioner already suffered incarceration for more than 4 months, the sentence alone is modified from 12 months to 6 months.

10. With the above modification, the Criminal Revision Case is dismissed. This court vide order dated 09.05.2019 in CrI.M.P.No.6533 of 2019, suspended the substantive sentence imposed against the petitioner. Therefore, the trial court is directed to secure the presence of the petitioner for undergoing remaining period of sentence as modified above.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

nvsri



To

1. The III Additional District and Sessions Judge,
Kallakurich
2. The Judicial Magistrate,
Sankarapuram.
3. The Chief Judicial Magistrate,
Villupuram.
4. The Sub-Inspector of Police,
Moongilduraipattu Police Station
Moongilduraipattu (Crime No.72 of 2014)
5. The Superintendent,
Central Prison,
Cuddalore.
6. The Public Prosecutor,
High Court, Madras.

Cr1.R.C.No.426 of 2019

KSM(CO)
SU(01/03/2022)