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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.No.388 of 2019

Sunil

... Petitioner

Versus

The Inspector of Police,
R.S.Puram Police Station, (L&O)
Coimbatore City,
Coimbatore District.

... Respondent

PRAYER:

Criminal Revision Petition filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records pertaining S.C.No.28 of 2015 on the file of the I Additional Assistant Sessions Judge, Coimbatore dated 31.08.2018 and which was modified in Crl.A.No.399 of 2018 dated 21.02.2019 on the file of the I Additional District cum Sessions Judge, Coimbatore revise the same.

For Petitioner : Mrs.M.Kokila
for M/s.S.Senthilkumar

For Respondent : Mr.S.Sugendran
Government Advocate, (Criminal Side)

ORDER

This Criminal Revision Petition has been filed to call for the records pertaining to S.C.No.28 of 2015 on the file of the I Additional Assistant Judge, Coimbatore dated 31.08.2018, which was modified in Crl.A.No.399 of 2018 dated 21.02.2019 on the file of the I Additional District cum Sessions Judge, Coimbatore.

2. The respondent police registered a case against the petitioner herein in Crime No.95 of 2013 for the offence under sections 450, 394 r/w 398 IPC. The respondent police after investigation, laid a charge sheet before the Judicial Magistrate No.I, Coimbatore and the learned Judicial Magistrate taken the charge sheet on file in P.R.C.No.10 of 2013 and after



completing the formalities under section 207 Cr.P.C., the learned Judicial Magistrate committed the case to the Principal District and Sessions Judge, Coimbatore. The learned Principal District and Sessions Judge taken the case on file in S.C.No.28 of 2015 and made over the same to the file of I Additional Assistant Sessions Judge, Coimbatore. The learned I Additional Assistant Sessions Judge framed the charge against the petitioner for the offence under sections 450, 394 r/w 398 and 324 IPC and after completing the formalities and after trial, acquitted the petitioner for the offence under sections 450 and 394 IPC r/w 398 IPC, however convicted the petitioner for the offence under section 324 IPC and sentenced him to undergo three years Rigorous Imprisonment. Challenging the said judgment of conviction and sentence, the petitioner filed the appeal before the Principal District and Sessions Judge, Coimbatore. The learned Sessions Judge taken the case on file in CrI.A.No.399 of 2018 and made over the appeal to the file of the I Additional District cum Sessions Judge, Coimbatore. The I Additional District cum Sessions Judge after hearing the arguments, dismissed the appeal and modified the sentence from three years Rigorous Imprisonment to one year Simple Imprisonment and again challenging the said judgment of conviction and sentence, now the petitioner has filed the present revision before this Court.

3. Learned counsel for the petitioner would submit that there is no independent witness and also no corroborative evidence in this case. Due to motive, P.W.1 foisted a false case against the petitioner. Investigating officer has also not conducted fair investigation and laid a charge sheet falsely as against the petitioner. The doctor one who given wound certificate Ex.P4 has stated that the injury sustained by P.W.1 is only a simple injury. Therefore, the offence committed by the petitioner is not fall under section 324 I.P.C. On the very same material evidence, acquitted the petitioner for the offence under section 450 and 394 r/w 398 I.P.C, however on the very same evidence, simply convicted the petitioner for the offence under section 324 I.P.C which is perverse. The appellate court failed to appreciate the entire evidence and simply modified the sentence only on sympathy ground and the appellate court has not re- appreciated the evidence and only endorsed the views of the trial court, modified the sentence, which warrants interference.

4. The learned Government Advocate (Criminal Side) appearing for the respondent police would submit that P.W.1 is the injured witness and P.W.15 is the doctor one who has given the medical evidence and also P.Ws.7, 8 and 12 are the persons, they have seen the petitioner come from the place of occurrence with iron rod with blood stain. Therefore from the evidence of P.Ws.1,7,8,12 and the doctor P.W.15, prosecution has proved its case beyond all reasonable doubt. Both the Courts below rightly



appreciated the evidence and convicted the petitioner and there is no perversity in the appreciation of the evidence and there is no merit in the revision and the same is liable to be dismissed..

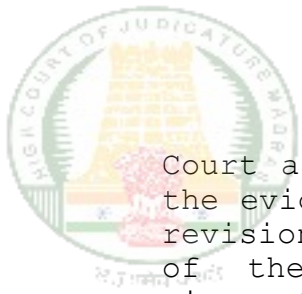
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5. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the records.

6. Admittedly, case was registered against the petitioner for the offence under sections 450, 394 r/w 398 I.P.C and in order to substantiate the charges against the petitioner, on the side of the prosecution, totally 18 witnesses were examined and 13 documents were marked. Out of 18 witnesses, injured was examined as P.W.1.

7. On a reading of evidence of P.W.1, she has categorically stated that the petitioner assaulter her with iron rod. Though the trial court not found the petitioner guilty for the offence under sections 450 and 394 IPC r/w 398 IPC, however found guilty for the offence under section 324 I.P.C. On a reading of the evidence P.W.1 which clearly shows that the petitioner has assaulted her with iron rod on her head and sustained injury and P.Ws.7, 8 and 12 also saw the petitioner near the plce of occurrence, and also soon after the occurrence and stated that the petitioner came from the place of occurrence with blood strains and also with the iron rod. P.W.15 is the doctor, who given the treatment to the defacto complainant has deposed that P.W.1 sustained head injury, which is simple in nature. However, Ex.P4 is the wound certificate, which clearly shows that P.W.1 sustained injury, which is caused by the petitioner. Though injury is simple in nature, weapon used is the iron rod which is a dangerous weapon and beaten with the rod on the head of P.W.1, therefore, the trial court convicted the petitioner for the offence under section 324 I.P.C and sentenced him to undergo 3 years rigorous imprisonment. However, the appellate court considering the facts and nature of the injury, modified the sentence and against that modification order neither the victim nor the prosecution filed any appeal or revision, the accused only has filed the present revision challenging the judgment of the appellate court.

8. Since this Court is a revisional court, it cannot re-appreciate the entire evidence and exercise the power of either the trial court or the appellate court and give the independent views and findings by re-appreciating the evidence on facts. The Court, while exercising revisional jurisdiction, has to find out as to whether any perversity in appreciation of the evidence by the trial court or the appellate court. On a combined reading of the evidence of P.W.1, 7, 8,12, 15 and Ex.P4, this



Court also finds that there is no perversity in appreciation of the evidence by both the Courts below. There is no merit in the revision and there is no reason to interfere with the findings of the both the Courts below. Therefore, under this circumstances, this Court finds that there is no merit in the revision and the same is liable to be dismissed. Accordingly, the Revision Case is dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The I Additional District cum Sessions Judge,
Coimbatore.
2. The I Additional Assistant Sessions Judge,
Coimbatore.
3. The Inspector of Police,
R.S.Puram Police Station, (L&O)
Coimbatore City,
Coimbatore District.
4. The Public Prosecutor,
High Court,
Madras.
5. The Section Officer,
Criminal Section,
High Court, Madras.

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srg 25/10/2021