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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.NO.409 OF 2021

1. Palanisamy
S/o.Samiappa Gounder
2. Rangasamy
S/o.Ramasamy Gounder

... Petitioners/
Accused No.1 & 2

Versus

1. Muthulakshmi
W/o.Duraisamy
2. The State represented by
The Inspector of Police,
Uthiyur Police Station,
Tiruppur District.

... Respondents/
Defacto Complainants

PRAYER:-

Criminal Revision Petition filed under Section 397 r/w.401 of the Code of Criminal Procedure, against the judgment of conviction and sentence passed by the learned Principal Sessions Judge, Tiruppur, Tiruppur District on 15.06.2021 in Criminal Appeal No.89 of 2019 convicting and sentencing the petitioners/respondents No.2 and 3/Accused No.1 and 2 herein to undergo one week simple imprisonment for the offence under section 323 of the Indian Penal Code by setting aside the judgment of acquittal passed by the learned Judicial Magistrate, Kankayam, Tiruppur District on 10.02.2014 in S.T.C.No.1197 of 2011.

For Petitioners : Mr.G.Saravanan

For R1 : Mr.K.Sudhakar

For R2 : Mr.S.Sugendran
Government Advocate (Crl.Side)



ORDER

This Criminal Revision Petition has been filed against the judgment of conviction and sentence passed by the learned Principal Sessions Judge, Tiruppur, on 15.06.2021 in Criminal Appeal No.89 of 2019 by setting aside the judgment of acquittal passed by the learned Judicial Magistrate, Kankayam, Tiruppur District on 10.02.2014 in S.T.C.No.1197 of 2011.

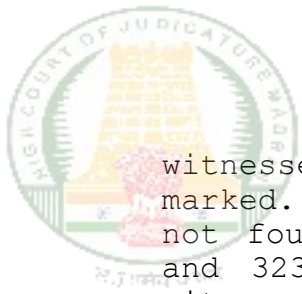
2. The respondent police registered the case against the petitioners and another in Crime No.192 of 2010 for the offence under section 294(b) and 323 I.P.C. After investigation laid a charge sheet before the Judicial Magistrate Kangayam, Tiruppur District. The learned Magistrate taken the case on file in S.T.C.No.1197 of 2011 and after the trial, acquitted the petitioners and challenging the same, the first respondent has filed the appeal before the Principal Sessions Judge, Tiruppur in CrI.A.No.89 of 2019. The Principal Sessions Judge, Tiruppur after hearing the arguments and perused the records, allowed the appeal in part and setaside the order passed by the Magistrate in S.T.C.No.1197 of 2011. Now challenging the judgment of the appellate court, the petitioners/accused has filed the present revision before this Court.

3. The learned counsel for the petitioners submitted that there is no evidence with regard to previous enmity and the motive for the occurrence and P.W.2 and P.W.3 are only hearsay witnesses. There are material contradictions between the witnesses. Though P.W.1 is said to have the injured witness, there are material contradictions between the injured witness and the medical evidence in the manner of the occurrence and also in the manner of injuries sustained by her.

4. Heard the learned counsel for the petitioners and the first respondent and the learned Government Advocate (Criminal Side) appearing for the official respondent.

5. The case of the prosecution is, with regard to pathway, there is a dispute between the complainant/first respondent's family and the accused. On the date of occurrence 08.10.2020, the accused abused the complainant with filthy language and assaulted her with hands and caused injuries and she was admitted in the hospital for treatment. She gave a complaint to the second respondent police and the respondent police registered a case in Crime No.192 of 2010 for the offence under section 294(b) and 323 of IPC.

6. In order to prove the case of the prosecution before the learned Magistrate, on the side of the prosecution, eight



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witnesses were examined as P.Ws.1 to 8 and eight documents were marked. No material object was exhibited. The learned Magistrate not found guilt of the petitioners for the offence u/s 294(b) and 323 IPC and acquitted them. In this case, out of eight witnesses, injured was examined as P.W.1 and in order to corroborate the evidence of P.W.1, the doctor was examined as P.W.6 who is spoken about the injury sustained by P.W.1 and also wound certificate marked as Ex.P3. The appellate court is a fact finding court, re-appreciated the evidence and from of the evidence of the injured witness P.W.1, and doctor P.W.6 and also the wound certificate Ex.P3, found that the petitioners caused injuries to P.W.1 and set aside the judgment of acquittal passed by the learned Magistrate and allowed the appeal and passed the judgment that petitioners were found guilty for the offence under section 323 I.P.C and convicted and sentenced to undergo simple imprisonment for one week for the offence under section 323 I.P.C. The appellate court has rightly appreciated that there is no independent witness to prove that the petitioners scolded P.W.1 with filthy language, acquitted the petitioners for the offence under section 294(b) I.P.C. However considering the injuries sustained by P.W.1 and also the evidence of P.W.1, doctor P.W.5 and the wound certificate Ex.P3, found guilt of the petitioners, convicted the petitioner under section 323 I.P.C.

7. The scope of the revision is very limited and the revisional court while dealing with the revision has to see as to whether there is any perversity in the appreciation of evidence in the judgment. It is a well settled proposition of law that the Revisional Court cannot sit in the arm chair of the appellate court and reappreciate the entire materials. This Court finds that there is no arguable points canvassed by the revision petitioners in the grounds of revision and also does not find any perversity in the appreciation of evidence and there is no merit in the revision and the same is liable to be dismissed. Accordingly, the Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Sessions Judge,
Principal Sessions Court,
Tiruppur.
2. The Judicial Magistrate,
Judicial Magistrate Court,
Kankayam,
Tiruppur District.
3. The State Represented By
The Inspector of Police,
Uthiyur Police Station,
Tiruppur District
4. The Public Prosecutor,
High Court,
Madras.

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LN(CO)
PBS/22/09/2021