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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.NO.929 OF 2019

Sathish Kumar

... Petitioner

Vs.

State Represented by
The Inspector of Police,
Mathur Police Station,
Krishnagiri District.
(Crime No.373 of 2014)

... Respondent

Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. to call for the records on the file of the learned Additional District and Sessions Judge, Krishnagiri, in Crl.A.No.20 of 2016 dated 16.11.2016 modified the judgment made in S.C.No.48 of 2015 on the file of the learned Assistant Sessions Judge, Uthangarai, Krishnagiri District dated 01.03.2016 and set aside the judgment dated 16.11.2016.

For Petitioner : Mr.E.Kannadasan

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

O R D E R

This criminal revision has been filed by the second accused against the judgment of conviction passed by the learned Additional District and Sessions Judge, Krishnagiri, on 16.11.2016 in C.A.No.20 of 2016 partly modifying the judgment passed by the learned Assistant Sessions Judge, Uthangarai, Krishnagiri District, in S.C.No.48 of 2015 dated 01.03.2016.

2 The respondent police registered a case in Crime No.373 of 2014 against the accused, in which the petitioner was arrayed as A2 for the offence under Sections 341, 294(b), 506(ii) and 307 (2 counts) of IPC and against A1, for the offence under Sections 341, 294(b), 506(ii) and 307 r/w 109 of IPC (2 counts). After investigation laid a charge sheet against the petitioner and the first accused. The case was taken on file in S.C.No.48



of 2015 and the learned Assistant Sessions Judge, Uthangarai, on completion of trial and hearing of arguments advanced on either side, by judgment dated 01.03.2016, convicted the petitioner and sentenced him to undergo rigorous imprisonment for a period of one month with fine of Rs.250/-, in default, to undergo rigorous imprisonment for a further period of fifteen days for the offence under Section 341 of IPC, to undergo rigorous imprisonment for a period of one month with fine of Rs.250/-, in default, to undergo rigorous imprisonment for a further period of fifteen days for the offence under Section 294(b), to undergo rigorous imprisonment for a period of three years with fine of Rs.1000/-, in default, to undergo rigorous imprisonment for a further period of three months for the offence under Section 506 (ii) , to undergo rigorous imprisonment for a period of seven years for each count with fine of Rs.3000/-, in default, to undergo rigorous imprisonment for a further period of six months for each default for the offence under Section 307 (2 counts) and the first accused was imposed sentence to undergo rigorous imprisonment for a period of one month with fine of Rs.250/-, in default, to undergo rigorous imprisonment for a further period of fifteen days for the offence under Section 341 of IPC, to undergo rigorous imprisonment for a period of one month with fine of Rs.250/-, in default, to undergo rigorous imprisonment for a further period of fifteen days for the offence under Section 294(b), to undergo rigorous imprisonment for a period of three years with fine of Rs.1000/-, in default, to undergo rigorous imprisonment for a further period of three months for the offence under Section 506(ii) , to undergo rigorous imprisonment for a period of seven years for each count with fine of Rs.3000/-, in default, to undergo rigorous imprisonment for a further period of six months for each default for the offence under Section 307 r/w 109 of IPC (2 counts). Assailing the judgment of conviction and sentence passed by the trial Court, the petitioner and the first accused had preferred an appeal, which was taken on file in C.A.No.20 of 2016. The learned Additional District and Sessions Judge, Krishnagiri, after hearing both the parties, by judgment dated 16.11.2016, partly allowed the appeal by acquitting the first accused from all the charges levelled against him and set aside the conviction recorded against the petitioner for the offence under Section 294(b) and 506(ii) and confirmed the conviction for the offence under Sections 341 and 307 (2 counts) of IPC and modified the sentence of imprisonment alone for the offence under Section 307 (2 counts) to five years rigorous imprisonment.

3 Aggrieved against the judgment passed by the learned Additional District and Sessions Judge, Krishnagiri, confirming the conviction for the offence under Section 341 and 307 (2 counts) and modification of sentence, the second accused is now



before this Court with the present criminal revision case.

4 According to learned counsel appearing for the petitioner/A2, there are material contradictions between the evidence of prosecution witnesses regarding the place of occurrence and the manner of the occurrence and the Court below has failed to consider the same. Even though, as per the evidence of prosecution witnesses, there were many persons available at the time of occurrence, prosecution has failed to examine those persons as independent witnesses. The witnesses examined by the prosecution are all interested witnesses and there are relatives, who would naturally support the case of the prosecution. Therefore, based on the evidence of the interested witnesses, the Court below recorded conviction against this petitioner. Further the trial Court has erroneously convicted the petitioner and A1 and the lower appellate Court, even though acquitted the first accused, erroneously convicted the petitioner based on the same set of evidence, which warrants interference of this Court.

5 The learned Government Advocate (Crl.Side) appearing for the first respondent police would submit that P.Ws.1 & 2, being the injured witnesses, have clearly deposed the occurrence and offence committed by the petitioner. While P.Ws.1 & 2, ploughing the field, due to enmity with regard to the land in dispute, this petitioner and the first accused came there and attacked with deadly weapon and caused grievous injuries. The evidence of the Doctors P.Ws.7, 8 and 9 and Exs.P6 to 9 corroborated with the evidence of injured witnesses. Even though the trial Court convicted both the accused, the lower appellate Court has convicted only the petitioner/A2 and reduced the sentence of imprisonment awarded by the trial Court. Therefore, there is no merit in the revision and the same is liable to be dismissed.

6 Heard the learned counsel appearing for the petitioner and the Government Advocate (Crl.Side) appearing for the respondent and perused the materials available on record.

7 Case of the prosecution is that due to previous enmity between the defacto complainant and the petitioners with reference to some land dispute, while P.Ws.1 & 2 ploughing the field, the petitioner and one another came and attacked with deadly weapon and caused grievous injuries. Hence present case has been registered against the petitioner.

8 This Court, while exercising revisional jurisdiction, cannot exercise power of the Appellate Court and this Court, being a revisional Court, cannot sit in the arm chair of appellate Court and it has no power to re-assess the evidence



and substitute its views on findings of fact. Further, while deciding the revision, the Court cannot conduct rowing enquiry and it can only see whether there is any perversity in appreciation of evidence by the Courts below.

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9 It is seen that P.Ws.1 & 2 are the injured witness. While P.Ws.1 & 2 ploughing the field, the petitioner along with A1 came there and A1 caught hold of P.W.2 and the petitioner attacked with knife, in which the hand of P.W.,2 removed from the body and the petitioner has also attacked P.W.1. The evidence of Doctors P.Ws.7 to 9 and the medical evidence Exs.P6 to 9 corroborated with the evidence of the injured witnesses. It is the contention of the learned counsel for the petitioner that all the witnesses are interested witness and based on their evidence conviction cannot be recorded. But, it is seen that the injured witnesses P.Ws.1 & 2 have clearly spoken about the offence committed by the petitioner, in which P.W.2 lost his hand. The medical evidence also corroborated with the evidence of the injured witnesses. The Doctors, who treated P.Ws.1 & 2, have appeared before the Court and deposed about the injuries sustained by P.Ws.1 & 2 and the treatment. Cases of this nature, evidence of injured witness can be taken into account, unless there is any reason to disbelieve the evidence of the injured witness. If the evidence of injured witness is cogent, consistent and trustworthy and inspires confidence of the Court, conviction can be recorded.

10 A combined reading of the evidence of the injured witnesses P.Ws.1 & 2, the evidence of Doctors P.Ws.7, 8 & 9 and Exs.P2 & P9/Discharge Summary, Exs.P7 & P8/Wound Certificates, this Court finds that prosecution has proved its case against the petitioner/A2 and there is no reason to disbelieve the evidence of the injured witnesses. The lower appellate Court, being a final Court of fact finding, has re-appreciated the entire evidence and even though acquitted the first accused, but, confirmed the conviction passed against the petitioner/A2. This Court does not find any perversity in the judgment of the learned Additional District and Sessions Judge.

11 Accordingly, this criminal revision shall stand dismissed. The trial Court is directed to secure the revision petitioner to serve remaining period of imprisonment, if any,

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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To

1. The Additional District and Sessions Judge,
Krishnagiri.
2. The Assistant Sessions Judge,
Uthangarai, Krishnagiri District.
3. The Inspector of Police,
Mathur Police Station, Krishnagiri District.
4. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.E.Kannadasan, Advocate Sr.No.44309(08/03/2022)

Cr1.R.C.No.929 of 2019

KU(CO)
CS/27/10/2021