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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2021

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Criminal Revision Case No.451 of 2021
and
Crl.M.P.No.7384 of 2021

Dinesh @ Batcha

.. Petitioner / Appellant / Accused

Vs.

State Represented by
The Inspector of Police
Bhuvanagiri Police Station
(Cr.No.140 of 2015)

... Respondent/Respondent/Complainant

Prayer : Criminal Revision filed under Section 397 read with 401 of Criminal Procedure Code, praying to call for the records and set aside the conviction Judgments made in Crl.A.No.70 of 2019 dated 17.07.2019 by the Hon'ble II Additional District and Sessions Court, Chidambaram and confirming the order in C.C.NO.73 of 2016 dated 17.10.2018 passed by the District Munsif cum Judicial Magistrate, Parangipettai.

For Petitioner : Mr.G.Pugazhenth

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

ORDER

(The case has been heard through video conference)

This Criminal Revision has been filed to set aside the Judgment made in Crl.A.No.70 of 2019 dated 17.07.2019 passed by the II Additional District and Sessions Court, Chidambaram, confirming the order of conviction passed by the District Munsif cum Judicial Magistrate, Parangipettai, in C.C.No.73 of 2016 dated 17.10.2018.

2. The respondent police registered the case against the



petitioner in Crime No.140 of 2015 for the offences punishable under Sections 294(b), 323, 324 and 506(ii) IPC. After completing the investigation, laid charge sheet before the learned District Munsif cum Judicial Magistrate, Parangipettai for the offences punishable under Section 294(b), 324 and 506 (ii) IPC and the learned Magistrate taken the charge sheet on file in C.C.No.73 of 2016 and after completing the formalities, the trial Court convicted the petitioner for the offences punishable under Sections 294(b), 324 and 506 (ii) IPC and sentenced to undergo three years rigorous imprisonment and fine of Rs.1,000/- in default to undergo one month simple imprisonment for the offence punishable under Section 506(ii) IPC and also sentenced to undergo three years rigorous imprisonment and fine of Rs.1,000/- in default to undergo one month simple imprisonment for the offence punishable under Section 324 IPC and further sentenced to undergo one month rigorous imprisonment for the offence punishable under Section 294(b) and ordered the sentences to run consecutively. Challenging the said Judgment of conviction and sentence, the petitioner filed appeal before the learned Principal District and Session Judge, Cuddalore and the same was taken on file in C.A.No.70 of 2019 and made over the case to the learned II Additional District Sessions Judge, Chidambaram. The learned Additional Sessions Judge, after hearing the arguments and considering the materials, confirmed the conviction and sentence however, modified the sentences to run concurrently instead of consecutively. Challenging the said Judgment of dismissal of appeal dated 17.07.2019, the present revision has been filed before this Court.

3. The learned Counsel for the petitioner would submit that the petitioner has not involved in any offences as alleged by the prosecution. Even assuming, the alleged weapon was not recovered and the Doctor has stated that the injury is simple in nature and thereby, Section 506 (ii) IPC would not attract whereas, the learned Magistrate without considering the same convicted the petitioner for all the three charges and the appellate Court only modified the mode of sentence and failed to appreciate the evidence. Thereby, there are perversity in appreciation of evidence and therefore, the revision may be allowed and the Judgment of conviction and sentence passed by the Courts below are liable to be set aside. He would further submit that in case, if the Court is not convinced, atleast the sentence may be reduced since, the injury is simple in nature.

4. The learned Government (Crl. Side) would submit that P.W.1 is the injured witness and P.W.2 is an eyewitness and they have categorically stated about the incident and the doctor one



who examined the injured, has also stated that the victim sustained injury on the left side of the shoulder and therefore, the prosecution has proved its case beyond all reasonable doubt. Both the Courts below have rightly appreciated the evidence and convicted and sentenced as stated above. Therefore, there is no merit in the revision petition and the revision is liable to be dismissed.

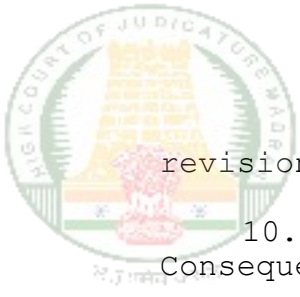
5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent and perused the materials on record.

6. Admittedly, the petitioner is the sole accused in the case in Crime No.140 of 2015. The Magistrate framed the charges against the petitioner for the offence punishable under Sections 294(b), 324 and 506(ii) and in order to substantiate the charges before the Magistrate, the prosecution examined 6 witnesses and marked 7 documents. Out of the 6 witnesses, the injured witness was examined as P.W.1. P.W.2 is the eyewitness, P.W.5 is the Doctor one who gave treatment to P.W.1 and issued the wound certificate.

7. Perusal of materials shows that P.W.1, the injured has clearly narrated the incident and P.W.2, the eyewitness has also corroborated with the evidence of P.W.1. The doctor one who gave treatment to P.W.1 was examined as P.W.5 and she has deposed that she gave treatment to P.W.1 and also stated about the nature of injury sustained by P.W.1. In order to prove the injury sustained by P.W.1, the copy of Accident Register is marked as Ex.P.3. Therefore, a reading of the evidence of P.Ws.1,2,5 and Ex.P.3 show that the Courts below have rightly appreciated that the petitioner / the sole accused is the one who caused the injuries to P.W.1

8. The scope of the revision is very limited. This Court cannot sit in the arm chair of the appellate Court and cannot appreciate or re-assess the evidence and substitute its views on findings of facts. As a revision Court, this Court has to see as to whether there is any perversity in the appreciation of evidence in the Judgments passed by the Courts below.

9. On a reading of the Judgments of the Courts below, this Court finds no perversity in the appreciation of evidence and there is no merit in the revision. The revision is liable to be dismissed and there is no arguable ground to admit the



revision.

10. Accordingly, this Criminal Revision case is dismissed.
Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

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To

1. The II Additional District Sessions Judge,
Chidambaram
2. The District Munsif cum Judicial Magistrate,
Parangipettai.
3. The Inspector of Police
Bhuvanagiri Police Station
4. The Public Prosecutor Officer,
High Court, Madras.
5. The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to M/s.G.Pugazhenthii, Advocate, S.R.No.38551

Criminal Revision Case No.451 of 2021

SR-II(CO)
SU(26/08/2021)