

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2021

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1130 of 2020 and
Crl.M.P.Nos7842 & 7843 of 2020

Pari ... Petitioner/Accused

Vs.

State By
Inspector of Police,
Kottapati Police Station,
Dharmapuri District.
Crime No.443 of 2008. ... Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, against the Judgment passed by the learned Principal Sessions Judge, Dharmapuri, in C.A.No.13 of 2017 dated 20.12.2019 confirming the sentence passed in SC.No.54 of 2014 by the learned Assistant Sessions Judge, Harur dated 24.03.2017 and to set aside the same.

For Petitioner : Mr.R.Thamaraiselvan (No Appearance)

For Respondent : Mr.K.Madhan,
Government Advocate [Crl. Side]

ORDER

This Criminal Revision has been filed by the petitioner against the judgment dated 20.12.2019 in C.A.No.13 of 2017 passed by the learned Principal Sessions Judge, Dharmapuri, confirming the judgment passed by the learned Assistant Sessions Judge, Harur in S.C.No.54 of 2014, dated 24.03.2017.

2.The respondent Police have registered a case in Crime No.443 of 2008, for offence under Sections 326 and 307 IPC against the petitioner on the complaint [Ex.P1] given by the defacto complainant (PW3). After completing investigation, the respondent Police laid a charge sheet before the learned

Judicial Magistrate, Harur. The learned Magistrate taken the charge sheet on file in P.R.C.No.20 of 2013. After completing the formalities, since the offences are triable by the Court of Sessions, he committed the case to the Principal Sessions Judge, Dharmapuri. The learned Principal Sessions Judge, Dharmapuri taken the case on file in S.C.No.54 of 2014 and made over to the Assistant Sessions Judge, Harur for disposal in accordance with law.

3.After completing the formalities under Section 207 Cr.P.C., since there was a prima facie material to frame charge against the petitioner, the learned Assistant Sessions Judge, framed charges under Section 326 and 307 IPC.

4.After completing the trial and hearing the arguments advanced on either side and also considering the oral and documentary evidence, the learned Assistant Sessions Judge found guilty of the petitioner for offence punishable under Section 307 IPC and convicted and sentenced to undergo three years Simple Imprisonment and to pay a fine of Rs.1,000/-, in default to undergo three months Simple Imprisonment. Against the conviction and sentence, the petitioner preferred an appeal before the learned Principal Sessions Judge, Dharmapuri and the same was taken on file as C.A.No.13 of 2017 and made over to the Additional Sessions Judge, Dharmapuri. The learned Additional Sessions Judge, Dharmapuri, by judgment, dated 20.12.2019, confirmed the judgment of the trial Court and dismissed the appeal, against which the petitioner is before this Court by way of revision.

5.Challenging the above said Judgment of conviction and sentence, the appellant has filed the present revision before this Court.

6.When the matter was taken up for hearing on 03.03.2021, there was no representation for petitioner. Today also, there is no representation for the petitioner either in person or by his counsel. Hence, this Court decides to dispose of the Criminal Revision at the admission stage itself on merits.

7.Heard the learned Government Advocate (CrI. Side) appearing on behalf of the respondent Police.

8.Mr.K.Madhan, learned Government Advocate (CrI. Side) appearing on behalf of the respondent Police would submit that due to the land dispute, on 02.08.2008, at about 05.30 p.m., when the defacto complainant (PW3) was working in his land, a cow belongs to the petitioner was grazing the crops in the defacto complainant's land. The defacto complainant chased the cows by questioning the petitioner why grazing the cows in the

land, at that time, the petitioner by using the iron rod attached the defacto complainant (PW3) brutally in his stomach, back side and head. Thereafter, the defacto complainant (PW3) was taken to the Government Hospital, Salem and he took treatment. The respondent Police received the complaint (Ex.P1) and registered the case against the petitioner and collected documents including the Wound Certificate (Ex.P11) and the Accident Register (Ex.P12) from the Doctor (PW12). After completing the investigation, the respondent Police laid a charge sheet before the learned Judicial Magistrate, Harur.

9.The Doctor (PW12) has clearly stated about the injuries sustained by the defacto complainant (PW3) and issued the Wound Certificate (Ex.P11) and the Accident Register (Ex.P12) to that effect.

10.The case of the prosecution is that there was a land dispute between the defacto complainant and the petitioner, due to which, a civil case was pending. On 02.08.2008, at about 05.30 p.m., when the defacto complainant (PW3) was working in his land, a cow belongs to the petitioner was grazing the crops in the defacto complainant's land. The defacto complainant chased the cows by questioning the petitioner why grazing the cows in his land, at that time, the petitioner by using the iron rod attacked the defacto complainant brutally in his stomach, back side and head. Thereafter, the defacto complainant was taken to the Government Hospital, Salem and he took treatment. The respondent Police, on receipt of the information, went to the Government Hospital, Salem and received the complaint (Ex.P1) and registered the case against the petitioner and collected documents including the Wound Certificate (Ex.P11) and the Accident Register (Ex.P12) from the Doctor (PW12).

11.During the trial, in order to prove the case of the prosecution, on the side of the prosecution, as many as 12 witnesses were examined, 12 documents were marked and 3 material objects were exhibited. After completing the evidence of prosecution witnesses, when incriminating circumstances were culled out from the evidence of the prosecution witnesses put before the accused, he had denied the same as false. On the side of the defence, one witness was examined and no document was marked. On the side of the Court, one witness was examined and one document was marked.

12.After completing the trial, the learned Assistant Sessions Judge found guilty of the petitioner for offence punishable under Section 307 IPC and convicted and sentenced to undergo three years Simple Imprisonment and to pay a fine of Rs.1,000/-, in default to undergo three months Simple Imprisonment. Against the conviction and sentence, the

petitioner preferred an appeal before the learned Principal Sessions Judge, Dharmapuri and the same was taken on file as C.A.No.13 of 2017 and made over to the Additional Sessions Judge, Dharmapuri. The learned Additional Sessions Judge, Dharmapuri, by judgment, dated 20.12.2019, confirmed the judgment of the trial Court and dismissed the appeal.

13.A reading of the evidence of the Doctor, who was examined as PW12, he has clearly stated that he gave treatment to the defacto complainant (PW3) and issued the Wound Certificate (Ex.P11) and made entry in the Accident Register (Ex.P12) regarding the injuries sustained by him. In Exs.P11 & P12, the injuries sustained by the defacto complainant are clearly mentioned. On reading of the evidence of the defacto complainant (PW3)/injured witness and the evidence of the Doctor (PW12), it is clearly seen that the petitioner has committed the offence under Section 307 IPC. The Lower Appellate Court, being a fact finding Court has correctly re-appreciated the entire evidence and materials and confirmed the judgment of the trial Court.

14.It is well settled that the scope of the criminal revision is very limited, unless there is any illegality or any perversity in the appreciation of evidence by the Courts below. The revisional Court normally will not interfere with the finding of the Courts below. Therefore, this Court while hearing revision cannot sit in the arm chair of the appellate Court and re-appreciate the evidence and materials, unless some glaring feature is pointed out which may show that injustice has been done.

15.On reading of the entire materials, it is seen that the evidence of the defacto complainant (PW3) is clearly corroborated by the evidence of the Doctor (PW12) and the Wound Certificate (Ex.P11) and the Accident Register (Ex.P12). Under these circumstances, this Court does not find any illegality or perversity or infirmity in the judgment of the trial Court and the lower appellate Court and the same are, hereby, confirmed.

16.In the light of the above discussion, the criminal revision is not sustainable and is liable to be dismissed and accordingly, dismissed at the admission stage itself. Consequently, the connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

VV2

To

1. The Principal Sessions Judge,
Dharmapuri.
2. The Assistant Sessions Judge,
Harur.
3. The Inspector of Police,
Kottapati Police Station,
Dharmapuri District.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Thamaraiselvan, Advocate, S.R.No.13795

Crl.R.C.No.1130 of 2020
and Crl.M.P.Nos7842 & 7843 of 2020

SSN(CO)
TE (30/04/2021)



WEB COPY