



BAIL SLIP

The Appellant/Accused viz, Pasupathy, S/o.Kuppusamy and Saroja, W/o.Kuppusamy were directed to be released on bail as per Order dated 31.10.2019 in Crl.M.P.No.15547 of 2019 on Crl.R.C.No.1156 of 2019 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1156 of 2019

1. Pasupathy

2. Saroja

... Petitioners/Accused 1 & 2

Vs.

1. State Represented by
The Sub-Inspector of Police,
Perunagar Police Station,
Kanchipuram District
(Crime No.905 of 2012)

2. Santha

...Respondents/Complainant/Defacto Complainant
3.

Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order of conviction passed by the learned Additional Sessions Judge, (Fast Track Court) Kanchipuram on 24.07.2019 in C.A.No.2 of 2017 and confirming the order of acquittal passed by the Judicial Magistrate I, Kanchipuram, in C.C.No.105 of 2015 dated 15.12.2016.

For Petitioner : Mrs.Jamuna Rani for
M/s.K.M.Balaji

Respondents : Mr.S.Sugendran,
Govt. Advocate (Crl.Side) for R1



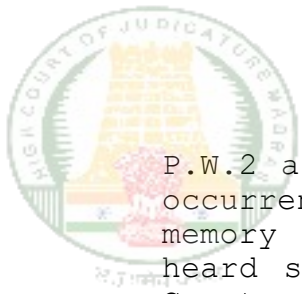
O R D E R

This criminal revision has been filed by the accused against the reversal judgment of conviction made by the learned Additional Sessions Judge, (Fast Track Court) Kanchipuram on 24.07.2019 in C.A.No.2 of 2017 partly modifying the judgment of acquittal passed by the learned Judicial Magistrate No.I, Kancheepuram, in C.C.No.105 of 2015 dated 15.12.2016.

2 The first respondent police registered a case in Crime No.905 of 2012 against the petitioners for the offence under Sections 294(b) and 506(ii) of IPC and after investigation laid a charge sheet, which was taken on file in C.C.No.105 of 2015. The learned Judicial Magistrate, after trial and hearing the arguments advanced on either side, by judgment dated 15.12.2016, acquitted the petitioners from all the charges levelled against them. Assailing the judgment of acquittal passed by the trial Court, the deaccto complainant had preferred an appeal, which was taken on file in C.A.No.2 of 2017. The learned Additional Sessions Judge, (Fast Track Court) Kanchipuram, after hearing both the parties, by judgment dated 24.07.2019 partly allowed the appeal by convicting the petitioners for the offence under Section 294(b) and confirmed the acquittal for the offence under Section 506(ii) of IPC and sentenced them to pay fine of Rs.500/- each, in default, each to undergo simple imprisonment for a period of one week for the offence under Section 294(b). Aggrieved against the said reversal judgment of conviction, the accused are now before this Court with the present criminal revision case.

3 According to learned counsel appearing for the petitioners/accused, about the crucial evidence of the memory card, in which, the alleged occurrence said to have been recorded, has not been mentioned either in the complaint or in the 164 statement. Hence, it is not a credible evidence and based on which, conviction cannot be recorded. The trial Court, by appreciating the evidence of the prosecution witnesses in a right perspective, has rightly held that the petitioners/accused are not found guilty of the offence charged against them. But, the lower appellate Court erroneously relied on the disputed memory card, has even though confirmed the acquittal for the offence under Section 506(ii), convicted the petitioners/accused for the offence under Section 294(b), which warrants interference of this Court.

4 The learned Government Advocate (Crl.Side) appearing for the first respondent police would submit that based on the complaint given by P.W.1 the present case was registered. P.W.1, being the victim, has clearly deposed the occurrence and the accused scolded P.W.1 with filthy language and evidence of



P.W.2 also corroborated the same. The Memory Card, in which the occurrence has been recorded was marked as M.O.1. While, the memory card was played before the Court, a female voice was heard scolding by using filthy language. Even though the trial Court acquitted the petitioners/accused, the lower appellate Court has convicted for the offence under Section 294(b) and confirmed the acquittal for the offence under Section 506(ii) of IPC and the same does not call for any interference of this Court.

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

6 Case of the prosecution is that due to previous enmity between the defacto complainant and the petitioners/accused with reference to some land dispute, the petitioners came to defacto complainant's house and shouted at her in front of her house using filthy language and threatened with dire consequences. Hence present case has been registered against the petitioners.

7 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, it can only see whether there is any perversity in appreciation of evidence by the Courts below.

8 A careful reading of the materials placed before this Court, it is seen that M.O.1, the memory card has been produced before the Court and was marked, in which, the alleged occurrence said to have been recorded. When the above Memory Card was played before the Court, there was one female voice scolding using filthy language. P.W.1 in her evidence clearly stated that the petitioners/accused scolded her using filthy language and at that time, she asked P.W.3, who came there, to record the same in his Mobile Phone. The evidence of P.W.3, who is an independent witness, has also corroborated with the evidence of P.W.1. Prosecution has proved its case beyond all reasonable doubt. The learned Magistrate acquitted the petitioners/accused mainly on the ground that prosecution has not proved that the female voice in the Memory Card is that of the second petitioner/A2. It is seen that the petitioners had not denied their presence in the scene of occurrence. Once prosecution has proved that the accused were present in the scene of occurrence and they only scolded the witness with filthy language, it is for the petitioners/accused to prove that the voice heard in the Memory Card is not that of the second



petitioner/A2 and they failed to prove the same. Even though, the trial Court has not appreciated the evidence of the prosecution witnesses in a right perspective, the lower appellate Court, being a final Court of fact finding, has re-appreciated the entire evidence and modified the judgment of acquittal passed by the trial Court by convicting the petitioners for the offence under Section 294(b) and confirmed the acquittal for the offence under Section 506(ii) of IPC. This Court does not any perversity in the judgment of the learned Additional Sessions Judge.

9 Accordingly, this criminal revision shall stand dismissed. The trial Court is directed to secure the revision petitioners to execute the sentence as imposed by the learned Additional Sessions Judge, (Fast Track Court), Kanchipuram, on 24.07.2019 in C.A.No.2 of 2017.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Sessions Judge,
(Fast Track Court),
Kanchipuram.
2. Do Through,
The Principal Sessions Judge,
Kanchipuram.
3. The Judicial Magistrate I,
Kanchipuram.
4. Do Through,
The Chief Judicial Magistrate,
Chengalpattu.
5. The Sub-Inspector of Police,
Perunagar Police Station,
Kanchipuram District



6. The Public Prosecutor,
High Court of Madras.

Copy to:

The Section Officer,
Criminal Section,
High Court, Madras.

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+lcc to Mr.K.M.Balaji, Advocate, S.R.No.43174

Cr1.R.C.No.1156 of 2019

KK(CO)
SU(26/10/2021)