



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	19.01.2021
DELIVERED ON	03.02.2021

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CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

CRL.RC (MD)No. 327 of 2016

Prakash

... Petitioner/1st Appellant/
1st Accused

Vs.

State rep. by
The Inspector of Police,
Lalapet Police Station,
Karur District.
Crime No. 396 of 2007

... Respondent/Respondent/
Complainant

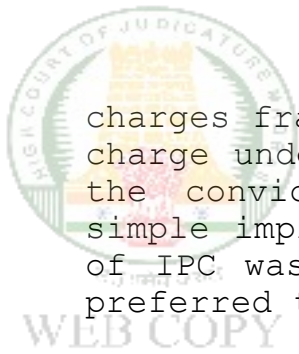
PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code to call for the records and set aside the Judgment passed on 29.10.2010 in C.A. No. 11 of 2010 on the file of the learned Sessions Judge, Karur by modifying the Judgment passed by the learned Judicial Magistrate No.I, Kulithalai, Karur in C.C. No. 184 of 2008 dated 03.03.2010.

For Petitioner : Mr.T. Senthil Kumar
For Respondent : Mrs.M. Anantha Devi
Government Advocate (Criminal side)

O R D E R

This Criminal Revision Case is filed by the revision petitioner/1st appellant/A-1, as against the conviction and sentence passed by the learned Judicial Magistrate No.I, Kulithalai, in C.C.No.184 of 2008, dated 03.03.2010, as partly allowed by the learned Sessions Judge, Karur, in C.A.No.11 of 2010, dated 29.10.2010.

2. As against the judgment of conviction and sentence passed by the learned Judicial Magistrate No.I, Kulithalai, in C.C.No.184 of 2008, dated 03.03.2010, the petitioner and other three accused persons have preferred an appeal before the learned Sessions Judge, Karur, in C.A.No.11 of 2010. The lower appellate Court, by judgment dated 29.10.2010, partly allowed the appeal and acquitted the



charges framed against the accused Nos.2 to 4 and acquitted from the charge under Section 341 of IPC., as against the petitioner/A-1 and the conviction and sentence of imposed fine of Rs.1,000/-i/d., simple imprisonment for One month for the offence under Section 324 of IPC was confirmed. Aggrieved over the same, the petitioner has preferred the instant criminal revision case.

3. The case of the prosecution is that on 21.10.2007 at about 04.30 p.m., the complainant Eswaran proceeded in his cycle to purchase vegetables and when he came near Kuppayee's house, Veeravalli Harijan Street, all the four accused due to previous enmity wrongfully restrained him and the accused Nos.1 & 2 abused the complainant by using filthy language and the 2nd accused held the complainant from moving away. Thereafter, all the four accused persons attacked the complainant with hands. The 1st accused with bill hook attacked on the right shoulder of the complainant and also criminally intimidated him that he would kill the complainant and thereby all the four accused said to have committed an offence punishable under Sections 341, 342, 294(b), 323, 324 and 506(ii) of IPC. Hence the complaint.

4. Heard Mr.T. Senthil Kumar, learned counsel appearing for the petitioner and Mrs.M. Anantha Devi, learned Government Advocate (criminal side) appearing for the respondent.

5. The learned counsel appearing for the petitioner submitted that the Judgment passed by the both the Court below are erroneously and illegal and unsustainable. He further submitted that the Court below failed to consider that the evidence of P.W.1 and his submission in cross examination itself creates strong doubt against the case of the prosecution. He further submitted that the lower Courts failed to consider the defence version of the case. He prayed to allow the instant Criminal Revision.

6. The petitioner/appellant/A-1 was charged under Sections 341, 294(b), 323 & 324 & 506(ii) of IPC and convicted under Section 324 of IPC alone and imposed fine of Rs.1,000/-i/d., One month simple imprisonment in C.C. No.184 of 2008, dated 03.03.2010 on the file of the learned Judicial Magistrate No.I, Kulithalai, Karur District. Against the said conviction, dated 03.03.2010, he had preferred an appeal in C.A. No. 11 of 2010 before the learned Sessions Judge, Karur, along with other three accused persons who were convicted for the offence under Section 341 of IPC. Except the petitioner/A-1, the other three accused persons were acquitted the conviction and punishment and against A-1 was confirmed in the appellate Court.

7. The learned counsel appearing for the petitioner further submitted that the petitioner/A-1 is working as Sales Man in Primary Agriculture in Co-operative Society. Therefore, the Probation Offenders Act may be considered without going into the merits of



8. Section, 3 of the Probation Offenders Act is extracted hereunder;

" Power of Court to release certain offenders after admonition:- When any person is found guilty of having committed an offence punishable under Section 379 or Section 380 or Section 381 or Section 404 or Section 420 of the Indian Penal Code (45 of 1860) or any offence punishable with imprisonment for not more than two years, or with fine, or with both, under the Indian Penal Code, or any other law, and no previous conviction is proved against him and the Court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient so to do, then, notwithstanding anything contained in any other law for the time being in force, the Court may instead of sentencing him to any punishment or releasing him on probation of good conduct under Section 4 release him after due admonition."

9. No other criminal cases lodged against the petitioner/A-1. Without going into the merits of the case, this Court is inclined to consider the request of the learned counsel appearing for the petitioner since the petitioner/A-1 is a first offender and he is also a Government Servant.

10. In fine, this Criminal Revision Case is partly allowed and the Judgment, dated 29.10.2010 in C.A. No. 11 of 2010 passed by the learned Sessions Judge, Karur is modified. The petitioner/A-1 is released under Section 3 of the Probation Offenders Act, after admonition.

Sd/-
Assistant Registrar(CS-II)

//True copy//

/ /2021
Sub Assistant Registrar

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.



To

1. The Sessions Judge, Karur.
2. The Judicial Magistrate No.I,
Kulithalai, Karur district.
3. The Inspector of Police,
Lalapet Police Station,
Karur District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
5. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

Order made in
CRL RC (MD) No.327 of 2016
03.02.2021

KSA
SRS/12.02.2021/4P/6C