

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

RESERVED ON	15.03.2021
DELIVERED ON	01.04.2021

CORAM :**THE HONOURABLE MRS.JUSTICE S.ANANTHI**
Cr1.RC(MD)No.506 of 2016**WEB COPY**

1. Selvaraj
2. Haridhas
3. Sukumaran
4. Rajan

...Petitioners/Appellants/A-1 to A-4
Vs.

The State, By The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.
(Crime No. 427 of 2001)

...Respondent/Respondent/Complainant

PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for records and set aside the order, dated 27.05.2016 passed by the Mahila Fast Track Court, Nagercoil in C.A. No.3 of 2008 confirming the Judgment, dated 14.12.2007 passed by the learned Assistant Sessions Judge, Kuzhithurai, Kanyakumari District in S.C. No. 243 of 2002.

For Petitioners : Mr.T. Lenin Kumar
For Respondent : Mrs. M. Anantha Devi
Government Advocate (crl. Side)

O R D E R

This Criminal Revision Case has been filed by the revision petitioners/A-1 to A-4 to set aside the order, dated 27.05.2016 in C.A. No.3 of 2008 passed by the Mahila Fast Track Court, Nagercoil, confirmed the Judgment, dated 14.12.2007 in S.C. No. 243 of 2002, passed by the learned Assistant Sessions Judge, Kuzhithurai, Kanyakumari District.

2. The revision petitioners/A-1 to A-4 were tried for the offences under Sections 341 and 307 of IPC, passed by the learned Assistant Sessions Judge, Kuzhithurai, Kanyakumari District, and the trial Court, in conclusion of the trial, found them guilty, convicted and sentenced to pay a fine of Rs.100/-each, in default to undergo rigorous imprisonment for One week, each, for the offence under Section 341 of IPC and to undergo rigorous imprisonment for Three years, each, and to pay a fine of Rs.500/-each, in default to undergo rigorous imprisonment for One year, each, for the offence under Section 307 of IPC. The petitioner preferred an appeal before the Court of Sessions and the same was taken in C.A.No. 3 of 2008 and was confirmed by order, dated 14.12.2007 on the file of the Mahila Fast Track Court, Nagercoil, confirmed the conviction and sentence imposed by the trial Court. Aggrieved by the orders of the

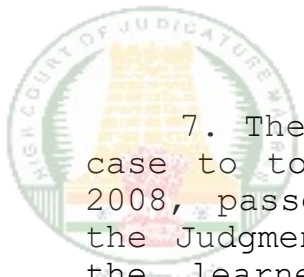
Courts below, the petitioners have preferred this revision case.

3. The brief fact of the case is that, since the first petitioner/A-1 married the sister of P.W.1 against the will and wish of their parents, there was enmity between the family members of P.W.1 and family members of accused persons. After marriage, A-1 harassed his wife/P.W.1's sister and the same was questioned by the family members of A-1's wife. After death of A-1's wife, his child were under the custody of P.W.4. On 12.05.2001, morning at 10.00 a.m., A-1 went to Hospital and asked P.W.1's mother to send Abisha who is his daughter Hospital with him the same was informed to P.W.1. On the same day at 04.45 p.m., P.W.1, P.W.4 & P.W.5 and Geminis went to Tea shop and returned back at 05.30 p.m., near Chellasamy Rubber Garden, Siruthunduvilai, at that time, A-1 to A-4 came to the spot with deadly weapons and stopped the witnesses. A-1 gave a blow with knife on P.W.4 the same was stopped by his right hand, caused blood injury on right hand knee and also caused another injury on right hand and also made life threat. A-2 gave a blow on P.W.4 with knife the same was stopped by left hand, and caused injury and also made life threat and also caused cut injury below the right knee. A-3 & A-4 have also made life threat by sword and also caused injuries below the right knee. Based on the complaint given by PW1, a case in Crime No. 427 of 2001 was registered by the respondent Police. After investigation, the respondent police has filed the final report for the offences under Sections 341 and 307 of IPC and both the Courts below have convicted the petitioner/accused as stated supra.

4. The learned Counsel for the revision petitioner contended that the Courts below failed to see that P.W.4/Sasikumar, who was an injured person said that the first injury was caused by the first appellant with right elbow, but, the would certificate given by the Doctor, P.W.2 said that the injury is on the right forearm, but, the evidence of the Doctor was that there is no jury on the right elbow. As the evidence of P.W.4 is contrary to the evidence of P.W.2, the trial Court ought to have rejected his evidence. He further submitted that the prosecution has failed to prove the time of occurrence and in order to avoid giving the female child to A-1, the P.W.1 lodged the above complaint. He further submitted that the order of the Trial Court is liable to be set aside. He prayed to allow the Criminal Revision Case.

5. Per contra, the learned Government Advocate (Crl. Side) submitted that the prosecution has clearly established the occurrence. She further submitted that there is no reason to interfere with the Judgment of Court below and the same is liable to be confirmed and therefore, she prays for dismissal.

6. Heard the learned counsel for the petitioners and the learned Government Advocate (crl. Side) for the respondent police and perused the material documents available on record.



7. The petitioners/A-1 to A-4 have filed this Criminal revision case to set aside the order, dated 27.05.2016 in C.A. No.3 of 2008, passed by the Mahila Fast Track Court, Nagercoil, confirmed the Judgment, dated 14.12.2007 in S.C. No. 243 of 2002, passed by the learned Assistant Sessions Judge, Kuzhithurai, Kanyakumari District.

8. The revision petitioners/A-1 to A-4 were charged for an offences under Sections 341 & 307 of IPC. The petitioners were convicted and sentenced to pay a fine of Rs.100/-each, in default to undergo rigorous imprisonment for One week, each, for the offence under Section 341 of IPC and to undergo rigorous imprisonment for Three years, each, and to pay a fine of Rs.500/-each, in default to undergo rigorous imprisonment for One year, each, for the offence under Section 307 of IPC.

9. Before six years from the date of occurrence, A-1 married P.W.1's sister and A-1 ill-treated his wife the was questioned by P.W.4. P.W.4 is the brother of P.W.1. After the death of A-1's wife, his daughter was residing with P.W.1. Therefore, there was misunderstanding between the first petitioner/A-1 and P.W.1. On 12.05.2001, at 10.00 a.m., when A-1's daughter was admitted in hospital, A-1 went there and asked P.W.1's mother to send his daughter with him. The mother of P.W.1 told about the incident to P.W.1 & his brother, Ramesh and Gemenis. On the same day, P.W.1, P.W.3 & P.W.4 went to Tea shop and returned at 05.30 p.m., A-1 & A-3 came there with knife A-2 & A-4 came with sword, restrained brother of P.W.1. A-1 tried to attack P.W.4 who is brother of P.W.1 the same was resisted by him a cut caused injury on the right hand of P.W.4, A-2 gave a blow on P.W.4's right hand with knife and also in left elbow of P.W.4. A-3 caused cut injuries on P.W.4's left leg and knee.

10. The point for consideration is that whether the prosecution has proved this case beyond reasonable doubt?

11. The complainant was examined as P.W.1 and there is no delay in registering the First Information Report. P.W.1, P.W.4(injured), P.W.5 were clearly deposed about the occurrence as stated in the complaint. As per evidence of P.W.2/Doctor all the injuries were corroborated with the statements of P.W.1, P.W.4 & P.W.5.

12. Though, the revision petitioners/A-1 to A-4 placed to consider their apologies the revision petitioners said to have charged for an offences under Sections 341 and 307 of IPC and section 307 of IPC is grave offence in nature. Without going into the merits of the case, considering the fact that family dispute case was pending from 2001 and the enmity was developed for the reason that P.W.4 and his family members were not giving the child to his father/A-1 and also considering the fact that there is no bad antecedents against the petitioners. Considering the request of the revision petitioners/A-1 to A-4, this Court is inclined to modify



the sentence into fine.

13. In view of the discussions and forgoing reasons, the Criminal revision Case is partly allowed. The sentence imposed by the Courts below is modified into fine and the petitioners/A-1 to A-4 were convicted to pay a fine of Rs.3,000/-, each, in default to pay the fine the Order of the Courts below shall be confirmed for the offence under Section 307 of IPC. If the petitioners/A-1 to A-4 failed to pay the fine, the trial Court is directed to secure and confine them, in accordance with law. Bail bonds, if any executed, shall stand terminated.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 Mahila Fast Track Court, Nagercoil.
2. The Assistant Sessions Judge, Kuzhithurai, Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.LENIN KUMAR, Advocate (SR-15263[F] dated 01/04/2021)

Cr1.RC(MD)No. 506 of 2016
01.04.2021

SSS(CO)

KB(29.04.2021) 4P 6C