



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CrI.R.C. (MD)No.314 of 2017

and

CrI.M.P (MD)No.2895 of 2021

WEB COPY

Marimuthu : Petitioner/Appellant/Accused
Vs.

State rep. by
The Sub-Inspector of Police,
Kadaladi Police Station,
Ramanathapuram District.
(Crime No.102/2012)

: Respondent/Respondent/
Complainant

PRAYER: The Criminal Revision Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the judgment passed in C.A.No.25/2013, dated 24.02.2015 on the file of the Additional District Judge, Ramanathapuram confirming the order of conviction and sentence passed in C.C.No.103/2012, dated 12.09.2013 on the file of the Judicial Magistrate, Mudukulathur and set aside the same and acquit the petitioner/appellant/accused from the charges leveled against him.

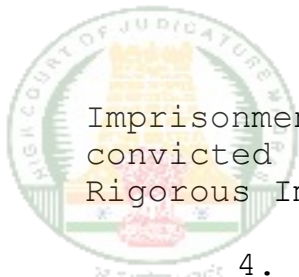
For Petitioner : Mr.R.Venkateswaran
For Respondent : Mr.M.Muthumanikkam
Counsel for Government of
Tamil Nadu (CrI.side)

ORDER

The present Criminal Revision Petition has been filed to check the correctness of the judgment rendered by the learned Additional District Judge, Ramanathapuram in C.A.No.25/2013, dated 24.02.2015, where in the judgment rendered by the learned Judicial Magistrate, Mudukulathur in C.C.No.103/2012, dated 12.09.2013 was confirmed.

2. The accused, in C.C.No.103 of 2012, on the file of the learned Judicial Magistrate, Mudukulathur, is the revision petitioner herein. Before the trial Court, he stood charged for the offence under Sections 294(b), 324 and 506(ii) of IPC. He denied the same and opted for trial. Therefore, he was put on trial on the charges.

3. After full-fledged trial, the learned trial Judge found the accused guilty for the offences under Sections 324 and 506(ii) of IPC. He has been convicted and sentenced to undergo Rigorous



Imprisonment for one year under Section 324 of IPC, further convicted under Section 506(ii) of IPC and sentenced to undergo Rigorous Imprisonment for one year.

4. Challenging the said conviction and sentence, the petitioner preferred an appeal in C.A.No.25/2013 before the Additional District Court, Ramanathapuram. The learned Additional District Judge, Ramanathapuram by judgment, dated 24.02.2015 affirmed the findings arrived at by the trial Court and dismissed the appeal. Therefore, the petitioner is before this Court with the present Criminal Revision Case.

5. The case of the prosecution in brief is as follows:-

(i) On 07.07.2012 around 8.30 p.m., in Ariyanathapuram Village, the deceased Palani, who was the defacto complainant in this case, while standing near to his house, the revision petitioner came there and abused him with filthy language, further, by using Velstick (கத்திகம்பு) he cut the deceased Palani in the left forearm and resultantly, the deceased Palani sustained simple injury. Immediately after the occurrence, P.W.2 and P.W.3, who are the wife and daughter of the deceased Palani, brought the deceased Palani to the Government Hospital, Kadaladi for giving treatment.

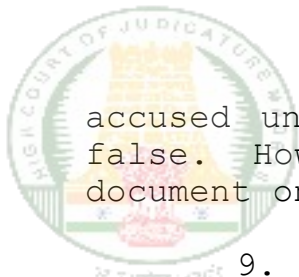
(ii) P.W.4-Dr.Furnithsiga, attached with Government Hospital, Kadaladi, on 08.07.2012 at around 12.00 hours, while she was on duty, treated the deceased Palani and found the following injuries:-

"A lacerated wound 4 x 1 x cm over at shoulder. Able to move all four limbs, GCS 15/15. No other injuries."

6. After giving treatment, she issued a wound certificate stating that the injury sustained by the Palani is simple in nature. In the meanwhile, upon receipt of the complaint given by the deceased Palani, P.W.5- the then Sub-Inspector of Police, Kadaladi Police Station registered a case in Cr.No.102/2012 for the offences punishable under Sections 294(b), 324 and 506(ii) of IPC. He visited the scene of occurrence and prepared an Observation Mahazar and Rough Sketch under Ex.P1 and Ex.P5 respectively. He examined the witnesses and recorded their statements. In the course of investigation, he collected the wound certificate from P.W.4 and filed a final report alleging that the revision petitioner is liable to be convicted under Sections 294(b), 324 and 506(ii) of IPC.

7. Based on the above materials, the trial Court framed the charges against the accused under Sections 294(b), 324 and 506(ii) of IPC. The accused denied the same as false and opted for trial. Hence, in order to prove their case, on the side of the prosecution, as many as 5 witnesses were examined as P.W.1 to P.W.5 and marked 5 documents as Ex.P1 to Ex.P5.

<https://hcservices.ecourts.gov.in/> the above incriminating materials were put to the



accused under Section 313 Cr.P.C. the accused denied the same as false. However, he did not chose to examine any witness or mark any document on his side.

9. Having considered all the above materials and after hearing the arguments advanced by the learned counsel appearing on either side, the learned trial Judge convicted and sentenced the accused as stated above. Further, the sentence awarded by the trial Court was confirmed by the learned Additional District Judge, Ramanathapuram in C.A.No.25/2013.

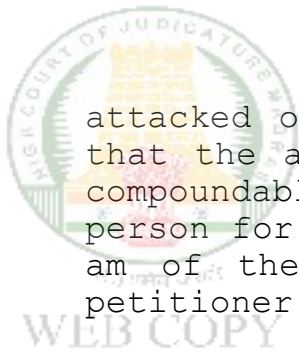
10. I have heard Mr.R.Venkateswaran, learned counsel appearing for the revision petitioner and Mr.M.Muthumanikkam, learned Government Advocate (Crl.side) appearing for the respondent. I have also perused the records carefully.

11. The learned counsel appearing for the revision petitioner would contend that the alleged occurrence is nothing but family quarrel happened in the family of the revision petitioner. The revision petitioner is the son-in-law of the injured Palani. Further, P.W.1-Indira is his mother-in-law and P.W.2-Thilagavathi is his wife. Now, the dispute arose between the accused and the injured has been compromised and for which, a joint compromise memo, dated 26.03.2021 has also been filed before this Court. According to him, after the compromise made between the injured and the accused, confirming the sentence awarded by the Court below is not required.

12. Per contra, the learned Government Advocate appearing for the respondent would submit that since the revision petitioner was convicted under Sections 324 and 506(ii) of IPC, in view of the fact that the said offences are classified as non-compoundable and therefore, the law does not permit this Court to record the compromise. According to him, interference of this Court in the findings arrived at by the Courts below does not require.

13. By considering the said submissions with relevant records, it seems that after filing the revision petition, both P.W.2 and the revision petitioner filed a joint compromise memo stating that due to the compromise already entered between them, the revision petitioner need not be sentenced further more.

14. In this occasion, on going through the judgment rendered by the Courts below it seems that the revision petitioner was convicted under Sections 324 and 506(ii) of IPC. Since both the offences narrated above are classified under Section 320 Cr.P.C., as non-compoundable, hence, I am of the opinion that the joint compromise memo filed by either party is no way helpful to the revision petitioner for deciding the issue in his favour. More over, on going through the history of the case, it is not in dispute



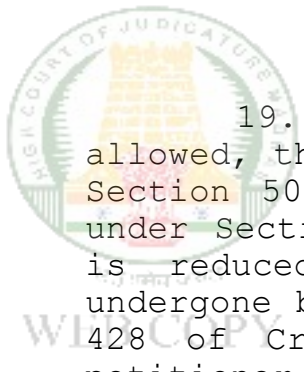
attacked one Palani, now he is no more. Therefore, even assuming that the alleged offences committed by the revision petitioner are compoundable in nature, only the injured Palani is the competent person for filing the petition to compound the offence. Therefore, I am of the opinion that the Joint Compromise Memo filed by the petitioner along with P.W.2 is not maintainable.

15. Now, on perusal of evidence, it seems that both P.Ws.1 & 2 have categorically stated that during the time of occurrence, the revision petitioner came to their house and with the aid of one Velstick cut the deceased Palani on his left shoulder. Further, the doctor, who treated the deceased Palani, has also gave evidence in support of the evidence given by P.W.1. Therefore, in respect of the attack made by the revision petitioner, the evidence put-forth by the prosecution witnesses are found cogent and inspire the confidence of this Court. In otherwise, on going through the entire evidence of P.W.1 and P.W.2 they did not say anything about the criminal intimidation made by the revision petitioner. Therefore, in the absence of clear evidence in respect of criminal intimidation convicting the revision petitioner under Section 506(ii) of IPC is nothing but cross injustice and also the same is manifest error. Hence, the sentence awarded by the trial Court under Section 506(ii) of IPC is set aside.

16. In other words, I am of the opinion that the evidence given by the prosecution witnesses in respect of the offence under Section 324 of IPC, is found clear for convicting the revision petitioner.

17. In this regard, the learned counsel appearing for the revision petitioner would contend that after the incident, both the revision petitioner and his wife-P.W.2 joined together and leads a happy matrimonial life. Further, the death of the injured Palani is not due to the attack made by the revision petitioner. In the said circumstances, if the sentence awarded by the trial Court is further confirmed, the same will create a confusion in P.W.2's matrimonial life. In this regard, he prays to give some leniency in awarding the sentence.

18. Now, on considering the said submission with relevant records in respect of the relationship between the petitioner and P.W.2, the submission made by the learned counsel appearing for the revision petitioner has conceded by the Government Advocate (Crl.side) appearing for the respondent and considering the facts and circumstances of the case, I am of the opinion that if the revision petitioner is sentenced further, it would cause much prejudice in P.W.2's life. Therefore, considering the nature of offence committed by the revision petitioner, I am of the opinion that sentencing the revision petitioner for a period of two weeks Rigorous Imprisonment is sufficient to meet the ends of justice.



19. Accordingly, this Criminal Revision Petition is partly allowed, the conviction and sentence imposed on the appellant under Section 506(ii) of IPC is set aside. In respect of the offence under Section 324 of IPC, the sentence awarded by the Courts below is reduced to two weeks. The period of imprisonment already undergone by the revision petitioner shall be set off under Section 428 of Cr.P.C. Bail bond, if any, executed by the revision petitioner shall stand cancelled. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

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Sub Assistant Registrar(CS)

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To

- 1.The Judicial Magistrate,
Mudukulathur.
- 2.The chief Judicial Magistrate Ramanathapuram.
- 3.The Additional District Judge,
Ramanathapuram.
- 4.The Sub-Inspector of Police,
Kadaladi Police Station,
Ramanathapuram District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:-

The Record Keeper, Criminal section(Records),
Madurai Bench of Madras High Court,
Madurai. (+2 copies)

Crl.R.C. (MD) No.314 of 2017
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RD(16.08.2021) 5P 8C