



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 01.07.2021

PRONOUNCED ON : 20.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.R.C. (MD) No.584 of 2017

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S.Subramani,
S/o. Saminatha Gounder

... Petitioner/Accused

Vs

The State rep. By
The Sub-Inspector of Police,
Keeranur Police Station,
Dindigul District.

... Respondent

PRAYER : Criminal Revision is filed under Section 397 & 401 of the Cr.P.C., praying to set aside the Judgment made in C.A.No.29 of 2016 on the file of the Additional District & Sessions Court, Palani dated 18.05.2017 confirming the judgment made in C.C.No.658 of 2012 by the Judicial Magistrate, Palani dated 22.07.2016.

For Appellant : Mr.D.Venkatesh

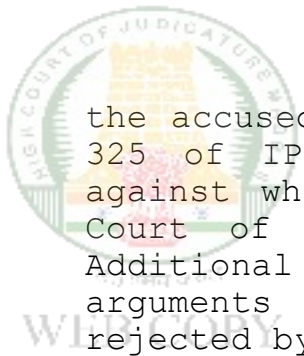
For Responden : Mr.T.Senthil Kumar
Government Advocate (Crl. Side)

O R D E R

(This case was heard through Video Conferencing)

This Criminal Revision had been filed assailing the Judgment and conviction recorded by the learned Judicial Magistrate, Palani in C.C.No.658 of 2012 dated 22.07.2016 which was confirmed in appeal by the learned Additional District & Sessions Judge, Palani by her Judgment in C.A.No.29 of 2016, dated 18.05.2017.

2. It is the case of the accused that it was the case and counter case. The prosecution has not laid all the materials before the trial Court/learned Judicial Magistrate. During cross examination, the receipt issued by the Police on the same day of the occurrence in favour of the accused was marked in cross examination of P.W-1 as Ex.D-1 dated 24.11.2012. When it is a case and counter case, it is an accepted principle that the Investigation Officer had to investigate both the cases and has to laid the final report of the investigation before the Court concerned. After taking the final report, it is for the Court to decide based on the evidence in the trial that who is the aggressor and who is the victim. Instead, the trial Judge/Judicial Magistrate, Palani ignored the defence of



the accused and convicted the accused for the offence under Section 325 of IPC imposing the sentence of imprisonment of one month against which the accused had filed C.A.No.29 of 2016 before the Court of Sessions which was later transferred to the learned Additional District & Sessions Court, Palani, where the same arguments on the side of the accused were put forth which were rejected by the learned Additional District & Sessions Judge, Palani confirming the conviction recorded by the learned Judicial Magistrate, Palani.

3. Therefore, aggrieved by the Judgment of conviction confirmed by the learned Additional District & Sessions Judge, Palani, this revision had been filed.

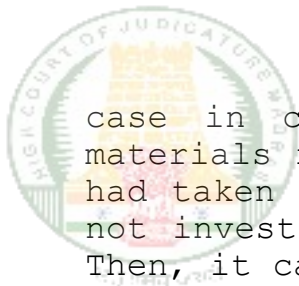
4. The learned counsel for the revision petitioner relied on the rulings of this Court in **Crl.A(MD).No.282 of 2009 (Kannan Vs. State)**, **Crl.A.(MD).No.328 of 2018 (Satheesh Kumar Vs. State)** and **Crl.A.(MD).No.329 of 2018 (Alagarsamy Vs. State)** where the Court failed to consider the valuable defence of the accused which was taken up in appeal before the High Court and the finding of guilt and the Judgment of the conviction recorded by the learned trial Judges were set aside.

5. The learned Government Advocate (Crl. Side) by way of reply stated that in revision cases, the discretion exercised by the High Court as a revision Court is on a narrow compass. When the Judgment of the trial Court had been confirmed by the appellate Court, the revision Court can interfere only if the finding arrived by the learned trial Judge is perverse or on technicalities of law. Further, the learned Government Advocate (Crl. Side) submitted that this revision has no merit and it has to be dismissed.

6. Point for Consideration

Whether the revision case is to be admitted as the Judgment of conviction recorded by the learned Judicial Magistrate, Palani dated 22.07.2016 in C.C.No.658 of 2012 recording the judgment of conviction against the accused is perverse and is to be set aside?

7. On perusal of the Judgment of the learned Additional District Sessions Judge, Palani in Crl.A.No.29 of 2016 and the arguments of the learned counsel for the accused/revision petitioner along with the written arguments furnished by the learned counsel for the accused before the learned Judicial Magistrate from among the record, it is found that the valuable defence available before the Court is, it is the case and counter. Whereas the Investigation Officer had not investigated the complaint given by the petitioner for which the receipt was issued by the Police under Ex.D1 was marked in the cross examination of the prosecution. In the light of Ex.D1, the valuable defence is found acceptable. When there is a



case in counter, the prosecution is expected to place all the materials fairly before the trial Court if the Investigation Officer had taken partisan role in investigating a particular complaint and not investigating the complaint of the counter complainant/accused. Then, it cannot be considered as a fair investigation.

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8. Based on the investigation report, even if the trial Court proceeds with the trial, the valuable defence available to the accused is put up in the cross examination of the investigation officer and receipt issued in the Police Station to the accused is marked as a document for the defence, then, it is probable that the case is in favour of the accused. The learned Judicial Magistrate had not considered the defence of the accused and convicted him under Section 325 of IPC imposing the sentence of imprisonment of one month.

9. The arguments raised on behalf of the convicted accused against the flaw committed by the learned trial Judge had been ignored by the learned Additional Sessions Judge in the Judgment in Crl.A.No.29 of 2016. Therefore, the revision petitioner/accused had come up by way of this revision case.

10. The arguments of the learned counsel for the revision petitioner/accused is found acceptable. On perusal of the Judgment of the learned trial Judge and the marking of the document under Ex.D1 during trial, those things were ignored by the learned trial Judge. Therefore, the reliance placed by the learned counsel for the revision petitioner/accused in **Crl.A(MD).No.282 of 2009 (Kannan Vs. State)**, **Crl.A.(MD).No.328 of 2018 (Satheesh Kumar Vs. State)** and **Crl.A.(MD).No.329 of 2018 (Alagarsamy Vs. State)** is applicable to this case and the revision is decided in favour of the accused/revision petitioner and against the prosecution.

In the result, this Criminal Revision Case is allowed. The Judgment of the learned Judicial Magistrate in C.C.No.658 of 2012 convicting the accused and sentenced him to undergo rigorous imprisonment of one month for the offence under Section 325 of IPC which was confirmed in the appeal by the learned Additional District and Sessions Judge, Palani, in C.A.No.29 of 2016 are set aside as perverse.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Additional District and Sessions Judge,
Palani

2.The Judicial Magistrate,
Palani.

3.The Sub-Inspector of Police,
Keeranur Police Station,
Dindigul District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court
Madurai.

Copy to

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

Crl.R.C. (MD) No.584 of 2017
20.09.2021

RK (28.09.2021) 4P 7C