



Bail Slip in Crl.R.C(MD)No.929 of 2017

Petitioner in this Criminal Revision, namely Abdul Rahman, S/o.Hyder Ali, Pudur, Ilayangudi, Sivagangai District, has been released on bail, Pending Revision, as per order dated 14.12.2017, made in Crl.M.P(MD)No.11387 of 2017 in Crl.R.C(MD)No.927/2017.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 30.04.2021

PRONOUNCED ON : 03.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.R.C.(MD) No.929 of 2017

Abdul Rahman

: Petitioner

Vs.

State through
The Inspector of Police,
Ilayangudi Police Station, Sivagangai District.
(in Cr.No.407 of 2013)

: Respondent

PRAYER: Criminal Revision Petition filed under Section 397 Cr.P.C. r/w. Section 401 of Criminal Procedure Code, to call for the records from the lower Court and to hear the revision and to set aside the order passed by the learned Chief Judicial Magistrate of Sivagangai in S.C.No.100 of 2014, dated 05.12.2015, which was confirmed by the learned Sessions Judge of Special Sessions Court to try the cases against women at Sivagangai in Crl. Appeal No.62 of 2015 on 24.05.2017.

For Petitioner : Mr.O.Sivakumar

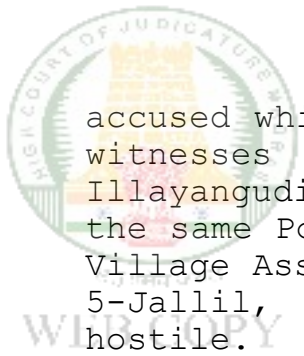
For Respondent : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl.side)

ORDER

This Criminal Revision Petition is directed against the order passed by the learned Chief Judicial Magistrate of Sivagangai in S.C.No.100 of 2014, dated 05.12.2015, which was confirmed by the learned Sessions Judge of Special Sessions Court to try the cases against Women at Sivagangai in Crl.Appeal No.62 of 2015 on 24.05.2017.

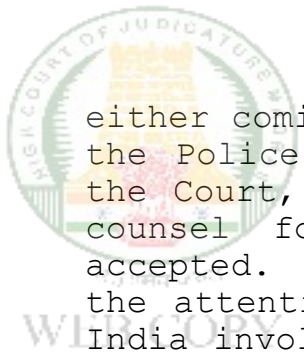
2.Heard Mr.O.Sivakumar, learned Counsel appearing for the Revision Petitioner and Mr.A.P.G.Ohm Chairma Prabhu, learned Government Advocate (Crl.side) appearing for the respondent.

3.The learned counsel for the revision petitioner submitted that the learned Chief Judicial Magistrate, Sivagangai, in his judgment in S.C.No.100 of 2014, dated 05.12.2005 had convicted the



accused which is not based on proper appreciation of evidence. The witnesses are P.W-1-P.Munichamy, Sub Inspector of Police, Illayangudi Police Station, P.W-2-S.Esakithurai, Police Constable in the same Police Station, P.W-3-R.Muthuramalingam, P.W-6-Chelladurai, Village Assistant of Illayangudi (South), P.W-4-Veeramuthu and P.W-5-Jallil, both are remained hostile. P.W-7-Karnan also remained hostile. P.W-8-Thirunavukarasu, also remained hostile and P.W-9-Jayasimman and P.W-10-Natarajan had also remained hostile. P.W-11-Muniraj who is a Doctor at Illayangudi Hospital had supported the case of the prosecution and issued a Certificate of Drunkenness under Ex.P-9. The deposition in his cross-examination was not considered by the learned Assistant Sessions Judge-cum-Chief Judicial Magistrate, Sivaganga. The Doctor, P.W-11, is the only witness who supported the prosecution apart from the police officials (i.e.,) P.W-1 to P.W-3 whereas independent witnesses P.W-4, P.W-5, P.W-7 to P.W-10 had not supported the prosecution. Therefore, the finding of guilt recorded by the learned Chief Judicial Magistrate, Sivagangai in S.C.No.100 of 2014 is perverse. Aggrieved by the Judgment of conviction and sentence of imprisonment imposed against the accused, the accused had preferred the appeal in Crl.A.62 of 2017 before the learned Mahila Judge (Sessions Judge Level), Sivaganga. After hearing the arguments of the learned counsel for the appellant/accused and the prosecution and on appreciation of evidence, the learned Principal Sessions Judge had also confirmed the finding of the learned Chief Judicial Magistrate cum Assistant Sessions Judge, Sivaganga. Aggrieved by the same, the accused had come before this Court by filing this revision.

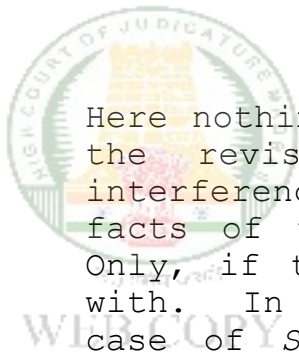
4.Mr.A.P.G.Ohm Chairma Prabhu, the learned Government Advocate (Crl. Side) by way of reply submitted that this is a case where the accused in this case had rashly driven a car after consuming liquor. Suspecting the drunk and drive, P.W-1-Sub Inspector of Police and his colleagues P.W-2 and P.W-3, who were on highway patrol duty, signaled the vehicle to stop. The vehicle stopped beyond the signal. When the Police Officials came near the Car, the Sub Inspector of Police was abused and assaulted by the accused. P.W-2 and P.W-3 came to rescue of P.W-1-Sub Inspector of Police. P.W-1-Sub Inspector of Police is the complainant under Ex.P-1. Based on his complaint, P.W-12 had registered the case and conducted investigation. He had issued a memo by which Dr.Muniraj had treated P.W-1. Therefore, the injury caused on P.W-1 by the accused 1 to 4 had been proved through medical evidence of P.W-11, Dr.Muniraj and the Wound Certificate issued by P.W-11 under Ex.P-8. This is a case involving A-1 to A-4 abusing public servants and preventing them from discharging their duty. When P.W-1, the Sub Inspector of Police and his colleagues (i.e.,) P.W-2 and P.W-3 were in the vehicle check on the highway, they were threatened, abused and assaulted by A-1 to A-4, in full public view. Therefore, the ingredients of offence alleged against the accused by the prosecution were proved. When Police Officials in uniform were



either coming forward to give eye-witness or coming to the rescue of the Police Officials or to support the case of prosecution before the Court, will not arise. Therefore, the arguments of the learned counsel for the revision petitioner/accused cannot at all be accepted. Also, the learned Government Advocate (Crl.Side) invited the attention of this Court to the occurrence happening throughout India involving general public threatening the police officials and preventing them from discharging their duty. When the police officials, who are in uniform, are threatened by lawless citizens, the Court cannot view the same leniently. Therefore, the case of the prosecution cannot be rejected lightly on the ground that P.W-1 to P.W-3 are police officials. The accused caused bleeding injury on P.W-1-Sub Inspector of Police. Before P.W-2 and P.W-3 would come to the rescue of P.W-1, they escaped from the place of occurrence that much had been proved. Therefore, the same is supported by P.W-6-Village Assistant. P.W-11-Doctor had deposed in his evidence regarding the bleeding injury on P.W-1. Therefore, nothing is found perverse in the judgment of the learned Chief Judicial Magistrate cum Assistant Sessions Judge, Sivaganga. The conduct of the accused in full public lay attacking the police officials in uniform in their duty causes fear in the minds of the general public. Therefore, nobody has courage to adduce evidence against the accused. The Court can draw adverse inference against the accused from the fact that P.W-4, P.W-5, P.W-7, P.W-8 to P.W-10 having turned hostile who were available in the place of occurrence that will not give the accused that their case had been proved.

5.On consideration of the rival submissions and perusal of the judgment pronounced by the learned trial Judge/the learned Chief Judicial Magistrate, Sivaganga and the learned Principal District Judge, Sivaganga, which are concurrent findings of fact are found to be on proper appreciation of evidence as rightly pointed by the learned Government Advocate (Crl. Side). Based on the reported rulings of the Hon'ble Supreme Court even though High Court can exercise its power of revision, it has no right to interfere with concurrent findings. Here, as rightly pointed out by the learned Government Advocate (Crl. Side), the accused are alleged to have not abide by the Law Enforcement Officer when they signaled to stop them. Instead, the accused abused the Complainant/Law Enforcement Officer and caused injuries on P.W-1-Sub Inspector of Police which is proved. Therefore, as rightly pointed out by the learned Government Advocate (Crl. Side) when the police officials in uniform were threatened in full public view, the members of the general public will not have the courage to stop the accused. Therefore, the evidence of the accused cannot at all be accepted.

6.The Revision Petitioner is the accused No.3 in S.C.No.100 of 2014 before the learned Chief Judicial Magistrate, Sivagangai. After appreciation of evidence, the learned Chief Judicial Magistrate, Sivagangai, had found the accused guilty of charges under Sections 294(b), 353, 323 and 307 of IPC.

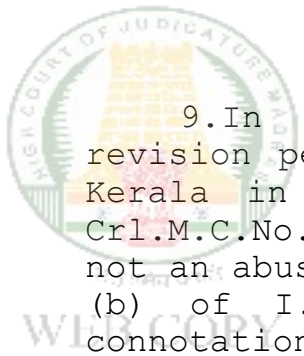


Here nothing is elicited while advancing the arguments on behalf of the revision petitioner that there is no merit warranting interference, as this Court, as Revisional Court, cannot go into the facts of the case or appreciation of the evidence of the case. Only, if there is any perverse finding, this Court can interfere with. In the reported Ruling of the Hon'ble Supreme Court in the case of *State represented by the Drugs Inspector vs Manimaran*, reported in (2019) 13 SCC 670, whereby, the Hon'ble Supreme Court had held that the Revision Court cannot go into the concurrent findings. The relevant portion of the said decision reads as under:

"D.Criminal Procedure Code, 1973 - S.401 - Revisional jurisdiction - Scope - Revisional Jurisdiction of High Court different from appellate jurisdiction - High Court, in revisional jurisdiction cannot interfere with concurrent findings of facts unless perverse or arrived at ignoring material evidence."

7.As per the reported ruling of the Hon'ble Supreme Court ***State represented by the Drugs Inspector vs Manimaran***, reported in (2019) 13 SCC 670, the Revision Court does not have the discretion to consider or re-appreciate the evidence that was available before the trial Court. The Appellate Court alone has the right or discretion to consider all the materials that were available before the learned trial Judge. The Revision Court even though High Court when exercising its power of revision does not have the discretion to analyze and re-assess the entire materials placed before the learned trial Judge. Only if the finding of either the trial Judge or the appellate Judge is perverse, the High Court as Revision Court can exercise its discretion. The discretion exercised by the revision Court is a narrow compass. Therefore, the revision Court cannot re-assess the evidence, particularly, when both the learned Trial Judge and the learned Appellate Judge had given concurrent findings. In such cases, the discretion of the Revision Court is directly nil.

8.As per the reported ruling in Hon'ble Supreme Court in 1995 SCC (5) 302 in the case of ***Anirudhsingh Vs. Sate of Gujarat*** wherein in public view, when a Minister in Gujarat was shot dead by the accused, the general public run helter-skelter for their life. Where the injured police officials who are on duty lodged a complaint based on which the criminal law was set in motion and the police officials alone deposed as witnesses. The defence of the accused is that the prosecution gives only the witnesses of police officials was rejected in that case of ***Anirudhsingh Vs. Sate of Gujarat***. The same principal applies in this case, therefore, the defence of the accused is rejected by the revisional Court. The concurrent finding of fact cannot be interfered by the revision Court. Hence, this revision is to be rejected as having no merits.

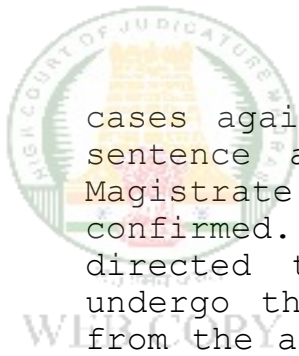


9.In the written arguments, the learned Counsel for the revision petitioner had relied on the ruling of the High Court of Kerala in the case in **Akhil Chandran -vs- State of Kerala** in CrI.M.C.No.3682 of 2019 wherein it was held that the word "dog" is not an abusive word attracting Section 294(b) of I.P.C. Section 294 (b) of I.P.C. specifically intended using abusive words with connotation in reference to sexual reference or sexual intercourse.

10.The word "நாடு" in Tamizh connotes in local parlance 'a person without civilized behaviour as a "dog" is ready to indulge in sexual offences on the street. Therefore, what had been interpreted in the decision of the High Court of Kerala is not applicable to the State of Tamil Nadu. The word "நாடு" has an obscene meaning with reference to human being. If the word is used in Tamizh as dog it connotes a person having no civilized behaviour and as pointed out in the judgment of Kerala High Court having sexual undertones. Here in this case, the accused before the trial Court is alleged to have abused the Police officers as dogs (போலீஸ் நாய்களை) in the glare of the public and also assaulted PW.1 - Sub Inspector of Police. Therefore, the rulings relied on by the learned Counsel for the Petitioner/Accused cannot be considered.

11.Not only that, the concurrent findings of facts cannot be interfered with in the revision as per the ruling of the Hon'ble Supreme Court. Only if the finding of the learned trial Judge or appellate Judge is perverse and on technicalities of law, the same can be agitated in the revision and the High Court as a revision Court can interfere with the finding of either the appellate Court or the trial Court. Here on proper appreciation of evidence, the learned trial Judge/Chief Judicial Magistrate, Sivagangai had acquitted the Petitioner/Accused from the offence under Section 307 of IPC and had convicted the Petitioner/Accused for the offence under Section 185 of Motor Vehicles Act. They were convicted only for the offence under Section 294(b), 332, and 353 of IPC. Therefore, the argument of the learned Counsel for the revision petitioner that the learned trial Judge had not properly appreciated the evidence before him cannot at all be accepted. The same was agitated before the learned appellate Judge/District and Sessions Judge, Fast Track Mahila Court, where the appeal was dismissed. The sentence imposed on the accused alone was modified. On concurrent finding, the revision Court cannot exercise any discretion. The discretion is exercised on a narrow compass only if technicalities of law is involved or if the finding of either trial Judge or appellate Court is perverse, the Revision Court can exercise its discretion. On that ground, this revision has no merits. The point for consideration is answered against the Revision Petitioners and in favour of the prosecution.

In the result, this Criminal Revision case is dismissed as having no merit. The judgment in CrI.A.No.62 of 2015 on the file of the learned Sessions Judge of Fast Track Mahila Court to try the



cases against Women at Sivagangai, dated 24.05.2017, modifying the sentence and fine amount levied by the learned Chief Judicial Magistrate of Sivagangai in S.C.No.100 of 2014, dated 05.12.2015, is confirmed. The learned Chief Judicial Magistrate, Sivagangai is directed to issue warrant to secure the petitioner/accused to undergo the remaining period of sentence and to collect the fine from the accused. The period of detention already undergone by the petitioner/accused is set off under Section 428 of Cr.P.C.

Sd/-

Assistant Registrar (AS)

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/ /2021

Sub Assistant Registrar(CS)

To

- 1.The Sessions Judge,
The Fast Track Mahila Court,
Sivagangai.
- 2.The Chief Judicial Magistrate,
Sivagangai.
- 3.The Judicial Magistrate,
Ilayangudi,
Sivagangai District.
- 4.The Inspector of Police,
Ilayangudi Police Station,
Sivagangai.
- 5.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. (2 Copies)

CRL.R.C. (MD) No.929 of 2017
03.09.2021

_RS (29.09.2021) 6P 8C