



CRL.R.C.No.139 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2022

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C.No.139 of 2018

Thirumalaisamy

... Petitioner

Vs.

1. The Inspector of Police,
Komangalam Police Station,
Pollachi.

2. Thirumalaisamy
3. Kumar @ KrishnaKumar
4. Thambu @ Nandagopalakrishnan
5. Ramasamy
6. Ramanujam

... Respondents

PRAYER: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C to set-aside the order made in C.A.No.77 of 2015 dated 04.10.2017 on the file of the First Additional District and Sessions Judge, Coimbatore confirming the order of acquittal made in S.T.C.No.312 of 2014 dated 03.03.2015 on the file of the Judicial Magistrate No.I, Pollachi.



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For Petitioner : Mr.K.S.Karthik Raja
For R1 : Mr.A.Gopinath
Government Advocate (Crl.Side)
For R2 to R6 : Mr.S.Manuraj

ORDER

This Criminal Revision case has been filed to set-aside the order made in C.A.No.77 of 2015 dated 04.10.2017 on the file of the First Additional District and Sessions Judge, Coimbatore confirming the order of acquittal made in S.T.C.No.312 of 2014 dated 03.03.2015 on the file of the Judicial Magistrate No.I, Pollachi.

2. The case of the prosecution is that on 11.06.2009, the accused persons illegally trespassed into the land of the defacto complainant, beat him and his family members. All of them sustained injuries. It is further alleged that due to previous enmity, the occurrence had taken place. Hence, the present case.



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3. After completion of investigation, the first respondent filed a final report and the same has been taken cognizance for the offences under Sections 147, 448, 323 and 324 of IPC in S.T.C.No.312 of 2014. The prosecution had examined P.W.1 to P.W.11 and marked Exs.P1 to P10. On the defence side, no one was examined and no document was marked. On a perusal of oral and documentary evidence, the accused was found not guilty. Aggrieved by the same, the petitioner preferred an appeal and the same was also dismissed, confirming the order passed by the Trial Court.

4. The learned counsel for the petitioner submitted that the subject land was owned by the petitioner and that was not denied by the accused persons. However, the Trial Court found that the prosecution failed to produce any document to show that the petitioner is the owner of the property. Admittedly, the occurrence had taken place, though the witnesses failed to prove the same. Both the Courts below, without considering the facts and circumstances, had mechanically acquitted the



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accused persons. The injured persons were admitted in the hospital and P.W.9 categorically deposed that he had treated the injured persons. The deposition of the injured persons are corroborated with the evidence of the Doctor and material evidence. Even then, the Trial Court, without considering the same, acquitted the accused persons.

5. A perusal of materials available on record revealed that pending the appeal before the First Appellate Court, the petitioner has filed an application seeking permission to adduce additional evidence, since the Trial Court acquitted the accused persons for the reason that the petitioner failed to prove the fact that the place where the incident had taken place belong to the defacto complainant or not. However, the Appellate Court dismissed the petition.

6. According to the prosecution, on 11.06.2009 at about 10.30 a.m, the accused persons had trespassed into the farm house of P.W.1 and had beaten P.W.1 to P.W.6. They got bleeding injuries. A perusal of deposition of P.W.1 revealed that he had given a sum of Rs.5,00,000/- to



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the first accused for purchase of the land belonging to A3. Thereafter, P.W.1 came to know about the encumbrance over the property and had shown his unwillingness about the purchase and asked to return the amount which was paid to the first accused. The first accused failed to repay the amount and dragged the matter. While being so, on 11.06.2009, when P.W.1, P.W.3 and P.W.5 had gone to meet the first accused in the morning and asked about the return of money. However, the first accused failed to return the money. Thereafter, at about 10.30 a.m., the accused persons unlawfully assembled and trespassed into the house of P.W.1 and attacked P.W.1 and his family members. However, the prosecution failed to examine any independent witnesses except the Mahazer. Witnesses are also not an eye witnesses to the occurrence. The Doctor who had treated the injured persons was examined as P.W.9. He deposed about the admission of the injured persons. However, none of the injured persons found discharged as per the medical advise. Therefore, the Doctor had not issued any wound certificate to them. Hence, P.W.9 failed to support the case of the prosecution. Though the petitioner intended to produce the documents to show that the place of occurrence was owned by the



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petitioner, it is not necessary. P.W.2 was discharged by the medical officer and no wound certificate was given because she has not sustained any injury. P.W.6 had not undergone full treatment but she has discharged herself against the medical advice. Therefore, no certificate was given to P.W.6.

7. In view of the above, both the Courts below have rightly acquitted the respondents 2 to 6 herein and this Court finds no infirmity or illegality in the orders passed by the Courts below and this revision is liable to be dismissed. Accordingly, this Criminal Revision case stands dismissed.

30.09.2022

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mn

To

1. The First Additional District and Sessions Judge, Coimbatore.
2. The Judicial Magistrate No.I, Pollachi.



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G.K.ILANTHIRAIYAN, J

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