



Crl.R.C.No.255 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2022

CORAM:

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

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Govindan

...

Petitioner

Vs

The State
Rep by Sub-Inspector of Police,
Kurisillapattu Police Station,
Vellore District.
Crime No.21 of 2013.

...

Respondent

Prayer: Criminal Revision case filed under Section 397 r/w Section 401 of Code of Criminal Procedure, to set aside the order made in C.A.No.1 of 2016 on the file of III Additional Sessions Judge, Vellore @ Tirupattur modifying the Judgment and sentence imposed in S.C.No.5 of 2014 dated 28.10.2015, on the file of the learned Assistant Sessions Judge, Tirupattur.

For Petitioner : Mr.G.Jeremiah

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

This Criminal Revision is directed as against the Judgment passed in C.A.No.1 of 2016 dated 31.07.2017 on the file of the III Additional



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Sessions Court, Vellore at Tirupattur, thereby modified the conviction passed in S.C.No.5 of 2014 dated 28.10.2015 on the file of the Assistant Sessions Judge, Tirupattur, thereby convicted the petitioner for the offence under Section 307 of IPC.

2. The case of the prosecution is that the first accused and the victim are brothers. The victim was working as a watchman of a mango grove belonging to Irunapattu Panchayat Union, where he has cultivated corn crops on a small portion of the said land. Due to previous enmity, on 29.01.2013, the accused persons started to cut the corn crops cultivated by the victim. Immediately, the victim came out from his house and questioned the same. All the accused persons wrongfully restrained the victim and A1 attacked him with Vettukathi on his chest. When the injured protected the attack by his hands, the blow went on his hand and he sustained injuries. Hence, the complaint.

3. On receipt of the complaint, the respondent registered an FIR in Crime No.21 of 2013 for the offence punishable under Section 294(b), 341, 307 read with 34 of IPC. After completion of the investigation, the



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respondent filed final report and the same has been taken cognizance for the offence punishable under Section 294(b) and 307 of IPC. There are totally three accused, in which the petitioner is arrayed as A1.

4. On the side of the prosecution, they examined P.Ws.1 to 12 and marked Exs.P1 to P12. The prosecution had also produced M.Os.1 to 6. On the side of the petitioner, no one was examined and no document was marked.

5. On perusal of the oral and documentary evidence, the Trial Court found the petitioner guilty for the offence punishable under Section 294(b) and 307 of IPC and he was sentenced to undergo five years rigorous imprisonment for the offence punishable under Section 307 of IPC and also to pay a fine of Rs.1,000/- in default to undergo three months rigorous imprisonment and he was sentenced to pay a fine of Rs.100/- for the offence punishable under Section 294(b) of IPC in default to undergo one week simple imprisonment. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed and the order of the Trial Court was confirmed.



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6. The learned counsel appearing for the petitioner would submit that there was a contradiction between the evidence of P.Ws.1 and 2. The victim was examined as P.W.1 and his wife was examined as P.W.2. According to P.W.1 when he returned home for breakfast, he heard a noise and saw the accused persons cutting the corn crops. When he questioned the same, all the accused persons wrongfully restrained the victim and A1 attacked him with Vettukathi on his chest, due to which, he sustained injuries. Whereas, P.W.2 deposed that when the accused persons were cutting the crops, she informed it to P.W.1 and he came and questioned the same. These contradictions are fatal to the case of the prosecution and even then, the Courts below rightly convicted the petitioner for the offence under Section 326 of IPC.

7. He further submitted that P.W.1, initially, was taken to Government Hospital, Tirupattur and thereafter, he went to Nalam Hospital, Sathuvachery, Vellore. Whereas, the Investigation Officer deposed that he was taken to Nalam Hospital, Vellore. Therefore, these contradictions were not considered by the Trial Court and mechanically convicted the petitioner. He further submitted that the petitioner and the



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victim are brothers. So far, the petitioner had been incarceration for six months imprisonment. He is also aged person and as such, requested to reduction of sentence.

8. Per contra, the learned Government Advocate (Criminal Side) submitted that the prosecution categorically proved its case beyond any doubt. Though, the Trial Court convicted the petitioner for the offence punishable under Section 307 of IPC, the Appellate Court modified the conviction for the offence under Section 326 of IPC. Though, P.W.1 and brother, with intention to do away the life of the petitioner, attacked him with vettukathi, therefore, he sustained grievous injuries. Immediately, he was taken to Government Hospital, Tirupattur. He was given first aid. Thereafter, he was taken to Nalam Hospital. Therefore, they recovered blood stain cloths from the victim at Vellore. Therefore, the Courts below rightly convicted the petitioner and it does not require any interference by this Court.

9. Heard, Mr.G.Jeremiah, learned counsel appearing for the petitioner and Mr.A.Gopinath, learned Government Advocate (Criminal



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Side) appearing for the respondent and perused the materials available on record.

10. There are totally three accused, in which the petitioner is arrayed as A1. The petitioner and the victim are brothers. There is a property dispute between them. While being so, on the date of occurrence, the petitioner and two others were cutting corn crops belonging to the petitioner, when it was questioned by the petitioner, he was attacked by the first accused. There were no specific overt act as against A2 and A3 and the Trial Court acquitted them and convicted the petitioner for the offence punishable under Section 294(b) and 307 of IPC. However, the Trial Court modified the conviction for the offence under Section 326 of IPC and sentenced him to undergo one year simple imprisonment and to pay a fine of Rs.1,000/- in default simple imprisonment for one month. It is true that there was minimum contradictions between P.Ws.1 and 2.

11. P.W.1 deposed that he came to his house for breakfast, he heard a noise and he had seen that the accused were cutting the corn



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crops. It was questioned by him, the accused persons attacked him with vettukathi. P.W.2, who is the wife of P.W.1, deposed that the accused persons cutting the corn crops, she immediately informed to her husband/P.W.1. Thereafter, he came to his house and questioned the illegal activities of the defacto complaintant. This contradiction is not fatal to the case of the prosecution, since, immediately after occurrence he was taken to Government Hospital, Tirupattur. He was given first aid by P.W.8, he deposed that on 29.01.2013 at about 10.00 a.m., the victim was taken by one Ramachandran for treatment. On verification, he found two injuries and referred to higher hospital for proper treatment. Thereafter, he was taken to Nalam Medical Centre, Sathuvacherry Village.

12. P.W.9 had treated the victim by taking X-Ray, when the victim was admitted in the hospital till 08.02.2013. On receipt of the information from the hospital, the police personnel registered the FIR. Therefore, the prosecution had proved its case beyond any doubt and minor contradiction would not suffer the case of the prosecution.



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13. In view of the above, this Court finds no infirmity or illegality in the order passed by the Courts below. Accordingly, this Criminal Revision Case is dismissed. However, considering the age of the petitioner and the period which was already undergone by the petitioner, this Court is inclined to reduce the sentence alone from one year to the period which is already undergone by the petitioner on condition that the petitioner shall pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to P.W.1 directly by way of Demand Draft on or before 29.11.2022, failing which, the sentence imposed by the Courts below stands automatically restored.

08.11.2022

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
Lpp

Note : Issue order copy on 18.11.2022
To

1. The III Additional Sessions Judge, Vellore @ Tirupattur
2. The Assistant Sessions Judge, Tirupattur.



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G.K.ILANTHIRAIYAN. J.

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