



Crl.R.C.No.515 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2022

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

Crl.R.C.No.515 of 2018

and Crl.M.P.Nos.6159 and 6160 of 2018

1. Baskaran

2. Kumaran

... Petitioners

Vs.

State by Inspector of Police,
Kadaladi Police Station,
Thiruvannamalai District,
(Crime No.322 of 2009)

... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C to set aside the order passed in Crl.A.No.58 of 2012 on the file of the Additional District and Sessions Judge (Fast Track), Arani, dated 28.02.2018 confirming the judgment passed in S.C.No.73 of 2010 on the file of the Assistant Sessions Judge, Arani, dated 23.11.2012.

For Petitioners : Mr.B.Gopalakrishnan
for Mr.A.Panner Selvam

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



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ORDER

This Criminal Revision case has been filed challenging the Crl.A.No.58 of 2012 on the file of the Additional District and Sessions Judge (Fast Track), Arani, dated 28.02.2018 confirming the judgment passed in S.C.No.73 of 2010 on the file of the Assistant Sessions Judge, Arani, dated 23.11.2012, thereby convicted the petitioners for the offences punishable under Sections 392, 394 r/w 397 of IPC.

2. The case of the prosecution is that the defacto complainant owned property ad-measuring 2 ½ acres with oil engine motor pumpset. However, the oil engine motor pumpset was kept idle, since there was no water in the well. While being so, on 11.06.2009, at about 10 p.m., he was informed that the accused were removing the pumpset and motor from the well. Immediately, he went there and found that A1 and A2 were dismantling the oil engine and pumpset. When it was questioned by the defacto complainant, A2 attacked the defacto complainant with a crow-bar. However, A2 escaped from the scene of crime and A1 was got hold by the defacto complainant and others. Hence, the complaint.



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3. On the complaint, the respondent registered an FIR in Crime No.322 of 2009 for the offences punishable under Sections 392, 394 r/w 397 of IPC. After completion of investigation, the respondent filed a final report and the same has been taken cognizance by the Trial Court for the offences punishable under Sections 392, 394 r/w 397 of IPC.

4. On the side of the prosecution, they examined P.W.1 to P.W.9 and marked Exs.P1 to P12 and also marked M.O.1 to M.O.3. On a perusal of oral and documentary evidence, the Trial Court found the petitioners guilty and each of the petitioners were sentenced to undergo 7 years simple imprisonment for the offence punishable under Section 392 of IPC and also imposed Rs.2000/- as fine, each, in default to undergo two months imprisonment. They were also sentenced to undergo 7 years imprisonment, each, for the offence punishable under Section 394 of IPC and also imposed Rs.2000/- as fine, each, in default to undergo two months imprisonment. In addition, A2 was also sentenced to undergo 7 years imprisonment for the offence punishable under Section 397 of IPC



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and also imposed Rs.2000/- as fine, in default, to undergo two months imprisonment. Aggrieved by the same, the petitioners preferred an appeal and the Appellate Court modified the condition under Section 379 of IPC and sentenced each of the petitioners herein to undergo 3 years imprisonment and also imposed fine of Rs.4000/-, each, in default to undergo 4 months imprisonment, each. Insofar as A2 is concerned, he was also sentenced to undergo one year simple imprisonment for the offence punishable under Section 324 of IPC and also imposed fine of Rs.2000/-, in default to undergo two months imprisonment.

5. The learned counsel for the petitioners would submit that he had handed over the entire bundle to the petitioners along with the change of vakalat. However, even till today, the petitioners failed to engage any new counsel on record and failed to appear before this Court in person.

6. Considering the submission made by the learned counsel for the petitioners, since the revision is of the year 2018, this Court is inclined to



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pass orders on merits.

7. The grounds raised by the petitioners are that there was no explanation by the respondent with regard to the custody of A1 from 11.06.2009 to 13.06.2009; there were material contradictions between the depositions and the statement recorded under Section 161 of Cr.P.C. P.W.1 was taking treatment from the Government Hospital, Polur from 12.06.2009, however, there was no information about on what date the respondent visited the hospital and enquired P.W.1 and he also failed to record any statement from P.W.1. That apart, P.W.1 deposed that he sustained cut injury on his right side of the head. However, the material objects 1 to 3 are not relevant to the injury sustained by P.W.1. The form-95, material objects and the statement under Section 161 Cr.P.C., were not sent to the Court on time. Therefore, the prosecution failed to prove its case beyond any doubt.

8. Heard Mr.A.Gopinath, learned Government Advocate (Crl.Side) appearing for the respondent.



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9. A perusal of records revealed that on 11.06.2009, at about 10 p.m., the petitioners went to the well owned by P.W.1 with an intention to steal the oil engine motor pumpset. When they were indulging in dismantling the oil engine motor pumpset, it was informed to P.W.1 and he visited the place of occurrence. When he questioned them, P.W.1 was attacked by A2, due to which, he sustained injuries. He was treated by P.W.8. She deposed about the injuries sustained by P.W.1. In support of the case of P.W.1, the prosecution examined P.W.2 and P.W.3. P.W.2 is the son of P.W.1, who was eye witness to the occurrence. He categorically corroborated the evidence of P.W.1. P.W.3 is an independent witness, who also corroborated the evidence of P.W.1. In fact, A1 was caught red handed and handed over to the respondent. Therefore, the prosecution clearly proved the case for the offence punishable under Section 379 of IPC, as against the first petitioner and Sections 379 and 324 of IPC as against the second petitioner.

10. Hence, this Court finds no infirmity or illegality in the orders



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passed by the Courts below and this revision is liable to be dismissed.

Accordingly, this Criminal Revision case stands dismissed. The respondent is directed to secure the petitioners to serve the remaining period of imprisonment. Consequently, connected Miscellaneous petitions are closed.

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Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order
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To

1. The Additional District and Sessions Judge (Fast Track), Arani.
2. The Assistant Sessions Judge, Arani.
3. The Inspector of Police,
Kadaladi Police Station,
Thiruvannamalai District.
4. The Public Prosecutor,
High Court, Madras.



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