



WEB COPY



Crl.R.C.No.579 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2022

CORAM:

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

Crl.R.C.No.579 of 2018

Rajamani

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Natrampalli Police Station,
Vellore District.

(Crime No.450 of 2011)

... Respondent

Prayer: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C, to set aside judgment passed in C.A.No.10 of 2017 on the file of the III Additional Sessions Court, Vellore, Thirupattur, dated 11.12.2017 confirming the judgment passed in C.C.No.4 of 2012 on the file of the Judicial Magistrate No.III, Thirupattur, dated 18.04.2017.

For Petitioner : Mr.K.Balaji

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

ORDER

This Criminal Revision case has been filed as against the judgment passed in C.A.No.10 of 2017 dated 11.12.2017 on the file of the III Additional Sessions Court, Vellore, Thirupattur, thereby confirming the judgment passed



Crl.R.C.No.579 of 2018

in C.C.No.4 of 2012 dated 18.04.2017 on the file of the Judicial Magistrate No.III, Thirupattur, thereby convicted the petitioner for the offence under Section 323 IPC.

2. The case of the prosecution is that on 19.09.2011 at about 5.30 p.m., when the accused was sitting in front of the Barber shop, the victim was proceeding to her mother-in-law's tea shop, the accused scolded her with filthy language, when the same was questioned by the victim, the accused had taken an iron chair from the said barber shop and attacked on her head. Therefore, the victim sustained grievous injuries on her nose and head. Immediately she was taken to hospital by 108 Ambulance. On receipt of the report, the respondent registered FIR in Crime No.450 of 2011 for the offence under Sections 294(b), 326 and 506(ii) IPC and after completion of investigation, the respondent filed final report and the same was taken cognizance by the trial Court in C.C.No.4 of 2012 for the offence under Sections 294(b), 326 and 506(ii) IPC.

3. On the side of the respondent, he examined PWs 1 to 9 and marked Exs.P1 to 10 and on the side of the petitioner no one was examined and no document was marked as exhibits.



4. On perusal of oral and documentary evidence, the trial Court found the petitioner guilty for the offence under Section 323 IPC and sentenced him to undergo six months simple imprisonment. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed and confirmed the judgment passed by the trial Court. Hence this revision.

5. The learned counsel for the petitioner would submit that except the victim no other witness was examined. Even according to the case of the prosecution, the victim's husband and her father-in-law were not eye witnesses to the occurrence and they were only hearsay evidence therefore, no other eye witness was examined by the prosecution. The trial Court unfortunately, without considering the facts and circumstances, mechanically convicted the petitioner.

6. The learned counsel for the petitioner would further submit that though PW5 deposed that the injury sustained by PW2 is grievous in nature, he failed to produce any wound certificate or any scan report and other documents to show that she sustained grievous injuries. Further, the Doctor, who treated PW2 was not examined by the prosecution. In fact, the person who brought



PW2 to the hospital was also not examined by the prosecution. Therefore, it is fatal to prove the case of the prosecution. Hence, the petitioner is liable to be acquitted.

7. Per contra, the learned Government Advocate (Crl. Side) submitted that PW3 owned the barber shop in which the occurrence has taken place. He is an eye witness and he categorically deposed that the petitioner attacked the victim by an iron chair at her face and head therefore, she sustained grievous injuries on her nose and head. However, the Court below convicted the petitioner only for the offence under Section 323 IPC for the reason that the prosecution failed to produce any documents to that effect. Immediately, after occurrence, 108 Ambulance was called and she was brought to the hospital. Hence, the prosecution categorically proved its case and it does not warrant any interference by this Court.

8. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondent and perused the materials available on record.



9. It is seen that on 19.09.2011, when the PW2 was proceeded to her mother-in-law's tea shop through PW3's barber shop, the petitioner was there and scolded her in filthy language and when the same was questioned by the victim, he attacked her with iron chair. Therefore, she sustained injuries on her nose and forehead and immediately she was taken to hospital and PW5 examined her and issued wound certificate which was marked as Ex.P2 accordingly she sustained injury and that she was bleeding on her nose. The victim was examined as PW2, she categorically examined and the same was also corroborated by PW3, who was an eye witness to the occurrence since the occurrence took place in the shop of the PW3.

10. That apart, the Doctor, who treated PW2, was examined as PW5, he deposed that the victim was brought to this hospital by one Thirupathi. She categorically stated that the accused attacked her with iron chair therefore, the prosecution proved its case beyond any doubt. Hence, the Courts below rightly convicted the petitioner for the offence under Section 323 IPC.

11. In so far as, the sentence is concerned, already the petitioner was incarcerated for 48 days. Considering the age of the petitioner, this Court is inclined to reduce the sentence for the period which he already undergone on



Crl.R.C.No.579 of 2018

condition that the petitioner shall pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as compensation to PW2/victim directly by way of Demand Draft on or before 28.11.2022, failing which, the sentence imposed by the trial Court shall stand automatically restored. It is made clear that if PW2/victim refused to receive the compensation amount, the petitioner shall deposit the said amount to the credit of trial Court as fine.

12. Accordingly, the Criminal Appeal is partly allowed.

07.11.2022

Index: Yes/No
Speaking/Non speaking order
ata

To

1. The III Additional Sessions Court,
Vellore, Thirupattur.
2. The Judicial Magistrate No.III,
Thirupattur.
3. The Inspector of Police,
Natrampalli Police Station,
Vellore District.



WEB COPY



Crl.R.C.No.579 of 2018

G.K.ILANTHIRAIYAN. J.

ata

Crl.R.C.No.579 of 2018

07.11.2022