



Crl.R.C.No.758 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2022

CORAM

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

Crl.R.C.No.758 of 2018

Gnanasekaran

... Petitioner

Vs.

The State represented by
Station House Officer,
Moongilduraipattu P.S.,
Sankarapuram Taluk,
Villupuram District.

... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C to call for the record in C.A.No.23 of 2018 dated 24.04.2018 passed by the III Additional District and Sessions Judge Kallakurichi, by confirming the Judgment in C.C.No.571 of 2013 on the file of Judicial Magistrate Sankarapuram set aside the Judgment and conviction.

For Petitioner : Mr.S.Mohanraj
for Mr.P.Tamilavel

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



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ORDER

This Criminal Revision case has been filed as against the Judgment passed in C.A.No.23 of 2018 dated 24.04.2018 passed by the III Additional District and Sessions Judge Kallakurichi, confirming the Judgment passed in C.C.No.571 of 2013, dated 14.02.2018, on the file of the learned Judicial Magistrate, Sankarapuram, thereby convicted the petitioner for the offence punishable under Sections 294(b) and 324 of IPC.

2. The case of the prosecution is that on 11.11.2012, at about 9.30 p.m., the accused persons went to the shop of the defacto complainant and enquired about him with the wife of the defacto complainant with regard to the information given to the forest officials. They also scolded her in filthy language and enquired about her husband's whereabouts. At that juncture, the defacto complainant came to the shop and immediately, A2 got hold his hands and A1 attacked the defacto complainant, due to which, the defacto complainant sustained injury below his left eye. Hence, the complaint.

3. On receipt of the complaint, the respondent registered an FIR for the offences punishable under Sections 294(b), 341, 324 and 506(ii) of IPC in Crime No.408 of 2012. After completion of investigation, the respondent filed a



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final report and the same has been taken cognizance by the Trial Court in C.C.No.571 of 2013 on the file of the learned Judicial Magistrate, Sankarapuram.

4. In order to bring home the charges, the prosecution examined P.W.1 to P.W.9 and marked Exs.P1 to P6. On the side of the petitioner, no one was examined and no document was marked. On a perusal of oral and documentary evidence, the Trial Court found A1 guilty for the offence punishable under Section 294(b) of IPC and sentenced him to pay a sum of Rs.1000/- as fine, in default to undergo two weeks imprisonment and also found guilty for the offence punishable under Section 324 of IPC and sentenced him to undergo 12 months simple imprisonment. Insofar as A2 is concerned, he was found guilty for the offence punishable under Section 294(b) of IPC and sentenced him to pay a sum of Rs.1000/- as fine, in default to undergo two weeks imprisonment and also found guilty for the offence punishable under Section 341 of IPC and sentenced him to pay a sum of Rs.500/- as fine, in default to undergo two weeks imprisonment. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed confirming the Judgment passed by the Trial Court. Hence, this revision.

5. The learned counsel for the petitioner would submit that no



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independent witness was examined by the prosecution in order to bring the charges to home. The occurrence was allegedly taken place on 11.11.2012, whereas, the complaint was lodged only on 14.11.2012. The prosecution failed to explain the delay in lodging the complaint. Though, there was crowd in the place of occurrence, no independent witness was examined by the prosecution and no one had taken any steps to rescue the defacto complainant from the hands of the accused. There were contradictions between P.W.1 and P.W.9. The wife of the defacto complainant was examined as P.W.9. Therefore, he prayed for acquittal from all the charges.

6. Per contra, the learned Government Advocate (Crl.Side) would submit that A1 was having physical relationship at the forest. It was seen by the forest office and enquired about his identity with P.W.1 through phone. P.W.1 informed that A1 was also his neighbour to his shop. Thereafter, A1 along with his friend A2 came to the shop enquired about the whereabouts of P.W.1 with P.W.9. They also scolded P.W.9 in filthy language. At that juncture, P.W.1 came to the shop. Immediately, A2 got hold his hands and A1 attacked P.W.1 with blue metal, due to which, he sustained injury below his left eye. They also caused damage to the goods in the shop.

7. The defacto complainant was examined as P.W.1. He categorically



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deposed that the Forest Officer enquired him about A1. After enquiry, on 11.11.2012, at about 9.30 p.m., the accused person came to the shop and enquired about him with P.W.9, who is his wife. They also scolded her in filthy language and enquired about the whereabouts of him. At that juncture, he came to the shop and he was attacked by A1 with blue metal on his left eye. Therefore, he sustained injury and immediately he was taken to Government Hospital, Kallakurichi. The eye witness i.e. The neighbour shop owners were examined as P.W.2, P.W.3, P.W.4 and P.W.5. They categorically deposed and corroborated the evidence of P.W.1. The Doctor who treated P.W.1 was examined as P.W.8. P.W.1 reported to the Doctor that he was attacked by two unknown persons. He was admitted as in-patient for two days. Only after his discharge, the complaint was lodged by P.W.1 on 14.11.2012. The complaint was received by P.W.6 and the same was registered in Crime No.408 of 2012 for the offences punishable under Sections 294(b), 341, 324 and 506(ii) of IPC.

8. There was delay in lodging the complaint only because that the defacto complainant was admitted in the hospital as in-patient for two days. That apart, there was no other evidence to disprove the case of the prosecution.



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9. Therefore, both the Courts below rightly found the petitioner guilty for the offence punishable under Sections 294(b) and 324 of IPC. That apart, the learned counsel for the petitioner submitted that the sentence imposed on the petitioner herein may be reduced.

10. Considering the submission of the learned counsel for the petitioner, the conviction as against the petitioner is hereby confirmed. Insofar as the sentence imposed on the petitioner herein for the offence punishable under Section 324 of IPC is concerned, it is reduced from one year to six months. The respondent is directed to secure the petitioner to serve the remaining period of sentence.

11. Accordingly, this Criminal Revision case is partly allowed.

01.11.2022

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

To

1. The III Additional District and Sessions Judge, Kallakurichi.
2. The Judicial Magistrate, Sankarapuram.



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G.K.ILANTHIRAIYAN, J

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