



Crl.R.C.No.768 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2022

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

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and Crl.M.P.Nos.8790 and 8791 of 2018

1. Arun @ Arunachalam
2. Arunpandiyam
3. R.Manikandan
4. Manikandan @ Mani

... Petitioners

Vs.

State by
The Sub Inspector of Police,
Velgoundampatty,
Nallur Police Station,
Nallur, Namakkal District.
(Crime No.38 of 2013)

... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C to call for the entire records in so far relates to order passed by Sessions (Fast Track Mahila) Judge, Namakkal, Namakkal District in C.A.No.3 of 2018, dated 15.05.2018 whereby confirming the order passed in S.C.No.18 of 2014, dated 09.01.2018 on the file of Assistant Sessions Court, Namakkal, Namakkal District and set aside the same.



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For Petitioners : Mr.C.Prakasam

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.3 of 2018, dated 15.05.2018 by the learned Sessions (Fast Track Mahila) Judge, Namakkal, Namakkal District, thereby confirmed the Judgment passed in S.C.No.18 of 2014, dated 09.01.2018 by the learned Assistant Sessions Court, Namakkal, Namakkal District, thereby convicted the petitioners for the offence punishable under Sections 341 and 395 of IPC.

2. The case of the prosecution is that on 23/24.02.2013 at about 01.30 a.m, at Unnamalai Village, Irumbu palammedu in Tiruchengode to Paramathy main road, the accused were standing there with motor cycles bearing Registration No.TN 34 J 8946, TN 34 Q 2689 and TN 24 H 7473 and planned to commit dacoity. They had wrongfully restrained the lorry bearing Registration No.TN 34 H 4597 and dragged the driver of the lorry inside the forest and they had beaten him with stick. They also



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dragged the cleaner of the lorry at knife point by putting him in fear, have committed dacoity of Rs.9,700/- and three cell phones. Hence, the complaint.

3. On receipt of the complaint, the respondent registered FIR in Crime No.38 of 2013 for the offences under Sections 341, 395, 395 r/w 397 of IPC as accused seven accused. After completion of investigation, the respondent filed a final report and the same has been taken cognizance by the Trial Court in S.C.No.18 of 2014.

4. On the side of the prosecution, they had examined P.W.1 to P.W.8 and marked Exs.P.1 to P.31. The prosecution had also produced M.O.1 to M.O.13. On the side of the accused, no one was examined and no document was marked. On a perusal of oral and documentary evidence, the Trial Court found the petitioners alone guilty for the offences punishable under Sections 341 and 395 of IPC. The accused were sentenced to undergo one month rigorous imprisonment, each, for the offence punishable under Section 341 of IPC. They were also



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sentenced to undergo five years rigorous imprisonment, each with a fine of Rs.1000/-, each, in default to undergo three months simple imprisonment, each. Aggrieved by the same, the petitioners 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 the prosecution failed to conduct any test identification parade. No independent witness was examined and only based on the evidence of the driver and the cleaner, the Trial court convicted the petitioners. In fact, P.W.1 and P.W.2 depositions are contradictory from the evidence of P.W.4 to P.W.8. He further submitted that the fourth petitioner already died and no offence is made out as against other petitioners.

6. Per contra, the learned Government Advocate (Crl.Side) would submit that both the Courts concurrently held that they have committed the offences under Sections 341 and 395 of IPC. It is a highway robbery and as such the Courts below rightly convicted the petitioners and it does



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not warrant any interference by this Court.

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7. Heard, Mr.C.Prakasam, learned counsel appearing for the petitioners and Mr.A.Gopinath, learned Government Advocate (Crl.Side), appearing for the respondent.

8. A perusal of records revealed that P.W.1 drove his lorry bearing Registration No. TN 34 H 4597 from Ramanadhapuram Valinokkam to Gobichettipalayam with salt load. All the petitioners restrained the lorry and dragged P.W.1 inside the forest. They had beaten him and committed robbery of Rs.9700/- and three cell phones. The cleaner of the lorry was examined as P.W.2. He also corroborated the evidence of P.W.1. The Village Administrative Officer was examined as P.W.4. The confession statement of the accused persons were recorded in front of P.W.4. The respondent recovered money from the accused and also other material objects and weapons used by them at the time of occurrence. P.W.1 sustained injuries and immediately went to the Government Hospital, Erode, where he was treated by P.W.5. P.W.1 stated before P.W.5 that he



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was attacked by the accused while committing dacoity and they robbed money from them. Though, the Doctor advised him to take treatment as in-patient, he refused to stay in the hospital and as such he issued Accident Register which was marked as Ex.P12 and the wound certificate was marked as Ex.P13.

9. A perusal of Ex.P12 revealed that P.W.1 had sustained injuries, due to the attack of the accused persons while committing dacoity and as such he has taken treatment from P.W.5. Thereafter, the accused were arrested and produced before P.W.6, the Judicial Magistrate, Tiruchengode. The Test Identification Parade was conducted in front of P.W.6 and the accused were identified by P.W.1 and P.W.2, during the Test Identification Parade.

10. That apart, the petitioners not even surrendered after their conviction and sentence were confirmed by the First Appellate Court. Therefore, the Courts below rightly convicted the petitioners and this Court finds no infirmity or illegality in the orders passed by the Courts below and this revision is liable to be dismissed.



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11. In view of the above, this Criminal Revision case stands dismissed as against the Petitioners 1 to 3. The respondent is directed to secure the petitioners 1 to 3 to serve the remaining period of sentence. Insofar as the fourth petitioner is concerned, he died and as such this Criminal Revision case is dismissed as abated as against the fourth petitioner. 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 Sessions (Fast Track Mahila) Judge, Namakkal, Namakkal District.

2. The Assistant Sessions Court, Namakkal, Namakkal District.

3. The Sub Inspector of Police,

Velgoundampatty,
Nallur Police Station,
Nallur, Namakkal District.

4. The Public Prosecutor,

High Court, Madras.



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