



Crl.R.C.No.268 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2022

CORAM:

**THE HON'BLE MR.JUSTICE P.VELMURUGAN**

Crl.R.C.No.268 of 2021

1.Veeman

2.Raja

...Petitioners

..VS..

State by

The Station House Officer,  
Chinnasalem Police Station,  
Crime No.267 of 2012.

... Respondent

Criminal Revision Case filed under Sections 397 and 401 Cr.P.C to call for the records pertaining to the judgment rendered in Crl.A.No.1 of 2021 dated 11.02.2021 on the file of the Principal Sessions Judge, Villupuram, confirming the conviction and sentence passed by the learned Principal Assistant Sessions Judge, Kallakurichi in S.C.No.199 of 2013 dated 10.12.2020 and set aside the same.

For Petitioners : Mr.A.G.Rajan

For Respondent : Mr.S.Sugendran  
Additional Public Prosecutor



Crl.R.C.No.268 of 2021

## **ORDER**

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This revision arises out of the concurrent findings passed in S.C.No.199 of 2013 confirmed in Crl.A.No.1 of 2021.

2.The case of the prosecution is that on 26.04.2012 at about 7 a.m while the *de-facto* complainant/P.W.1 taking water in a public water tap, which is nearby the house of the accused persons, at that time, the accused persons came there and abused the *de-facto* complainant in a filthy language by stating that "ஏன் தேவியா இங்கு வந்து தண்ணிர் பிடிக்கிறாய்" and when the same was questioned by her brother-in-law/P.W.1, A2 assaulted him with thadi on his head and A1 also assaulted him with spade on his right side head, eyebrow, cheek and left ear with the intention of murdering him and when the same was restrained by P.W.1, A2 assaulted her with thadi on her left elbow and further A1 also assaulted her with spade on her left elbow and A3 and A4 scolded them and also assaulted P.W.3/who is the wife of P.W.2 and hence, they sustained grievous injuries and thereby, the accused persons had committed offences



Crl.R.C.No.268 of 2021

punishable under Sections 294(b), 323, 324 and 307 IPC.

3.On the complaint given by the *de-facto* complainant, the respondent/Police registered a case in Crime No.267 of 2012 against the first petitioner/first accused for the offences under Sections 294, 324 and 307 IPC and second petitioner/second accused for the offences under Sections 294(b) and 324 IPC and accused Nos.3 and 4 for the offences under Sections 294(b) and 323 IPC. After investigation, the respondent/Police laid a charge sheet before the learned Principal Assistant Sessions Judge, Kallakurichi and the same was taken on file in S.C.No.199 of 2013. The trial Court found that the accused persons were guilty of the offences and framed charges against the first accused under Sections 294(b), 324 and 307 IPC and second accused under Sections 294(b) and 324 (2 counts) IPC and accused Nos.3 and 4 under Sections 294(b) and 323 IPC.

4.The Court below, after hearing the arguments advanced on either



Crl.R.C.No.268 of 2021

side and also considering the materials available on record convicted and sentenced the first petitioner/A1 to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.2,000/-, in default, to undergo simple imprisonment for a period of four months for the offence under Section 324 IPC; and to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for a period of six months for the offence under Section 307 IPC. The trial Court convicted and sentenced the second petitioner/A1 to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.2,000/-, in default, to undergo simple imprisonment for a period of four months for the offence under Section 324 (1 count) IPC and the petitioners have acquitted from other charges. The accused persons 3 and 4 have also acquitted from all the charges.

5. Challenging the said conviction and sentence, the petitioners preferred an appeal in Crl.A.No.1 of 2021 before the learned Principal Sessions Judge, Villupuram and the same was dismissed by confirming the



Crl.R.C.No.268 of 2021

judgment of the trial Court. Aggrieved by the same, the petitioners have filed the present revision.

6. The learned counsel for the petitioners/A1 and A2 submitted that earlier complaint lodged by the *de-facto* complainant/P.W.1 on the date of occurrence was suppressed in this case. According to P.W.1, immediately after the occurrence, she straight away went to the police station and lodged an oral complaint before the Sub-Inspector of Police and the same was suppressed, whereas P.W.2 in his evidence has deposed that immediately after the occurrence he straight away went to the hospital for treatment. At that time, the police came to the hospital and recorded the statement of P.W.1 and the said statement was marked as Ex.P1. He further submitted that according to P.W.2, he was examined by P.W.8/Doctor and at the time of examination, P.W.2 has stated that six known persons assaulted them, whereas the case was registered against only four persons. Further the material objects M.Os.1 and 2 were recovered, but the prosecution has not proved that the same were used for



Crl.R.C.No.268 of 2021

assaulting P.Ws.1 and 2. The mahazar witness also turned hostile. Further, the Sub-Inspector of Police, who registered the case has also not examined. P.W.4 who has examined as independent witness to the said occurrence is also turned hostile and she did not support the case of the prosecution. He further submitted that though the occurrence took place in the morning hours at 7.00 a.m and also the place of occurrence is in the residential area and therefore, none of the neighbours were cited as witnesses and examined by the prosecution. The Doctor, one who treated P.W.2 at Salem General Hospital was not examined as a witness. P.W.1 to P.W.3 who have supported the case of the prosecution are relatives and they are interested witnesses. Therefore, no proper evidence was substantiated by the prosecution. The trial Court failed to consider all these aspects and simply convicted and sentenced the petitioners herein and therefore, the appreciation of the evidence of the trial Court is perverse. Challenging the same, the petitioners preferred an appeal.

7. The learned counsel further submitted that the First Appellate



Crl.R.C.No.268 of 2021

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Court as a fact finding Court should have re-appreciated the entire evidence independently and also given independent evidence, instead of simply recording the view of the trial Court. Therefore, the judgment of conviction and sentence passed by the both Courts below are liable to be set aside.

8. The learned Additional Public Prosecutor appearing for the respondent submitted that P.W.1 and P.W.2 are the injured witnesses and they have categorically spoken about the incident that after the occurrence immediately they rushed to hospital and the Doctors, who gave treatment to P.W.1 and P.W.2 were examined as P.W.7 and P.W.8 and medical certificate was also marked as Ex.P6. From the evidence of P.W.1 and P.W.2, who are eye witness as well as injured witness, Doctors/P.W.7 and P.W.8 and medical report/Ex.P6, the prosecution clearly proved that there is a specific overt act against the revision petitioners and they have committed the said offence and hence, the trial Court has rightly appreciated the entire material facts, weapons used in the case and the



Crl.R.C.No.268 of 2021

injuries sustained by the victims and convicted and sentenced the petitioners. He further submitted that even though the medical certificate shows that the injuries sustained by the victims are simple in nature, however, weapons used by the petitioners and also the place chosen to cause the injury are serious in nature. Therefore, there is no perversity in the orders of both the Courts below.

9. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondent and also perused the materials available on record.

10. Admittedly, the respondent-Police registered a case against the petitioners herein and two others in Crime No.267 of 2017 before the learned Judicial Magistrate, Kallakurichi. The learned Magistrate taken the charge sheet on file and after completion of all formalities, the learned Magistrate found that since the offence is triable by Court of Session committed the case to the learned Principal Sessions Judge, Villupuram



Crl.R.C.No.268 of 2021

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and the same was taken on file in S.C.No.199 of 2013 and charges were framed against the petitioners as stated above.

11. During trial, in order to prove the case of the prosecution before the trial Court, on the side of the prosecution as many as 9 witnesses were examined as P.W.1 to P.W.9 and also marked 11 documents as Exs.P1 to P11 and two material objects were marked as M.O.1 and M.O.2. On the side of the defence, no oral and documentary evidence was marked. The trial Court after considering the entire oral and documentary evidence acquitted the accused 3 and 4 from the above charges and convicted and sentenced them as stated above.

12. On a careful reading of the entire materials, it is seen that the injured witnesses P.W.1 and P.W.2 have clearly spoken about the injuries sustained by them, which were caused by the petitioners/A1 and A2. Even the Doctors/P.W.7 and P.W.8 evidence also corroborated with the evidence of the injured witnesses. Though there are contradictions and



Crl.R.C.No.268 of 2021

discrepancies, but that might not be a material contradictions, which will not go to the root of the case of prosecution. Since in this case injured were examined as prosecution witnesses and their evidence were corroborated with the evidence of medical evidence.

13.The scope of revision is very limited. The Trial Court and the Appellate Court had already appreciated and re-appreciated the entire evidence and also given findings and while exercising the revisional jurisdiction, this Court cannot sit in the arm chair of the Appellate Court and re-appreciate the evidence. However, this Court has to see whether there is any perversity or infirmity in the judgments of the Courts below.

14. Taking into consideration of the evidence of P.W.1 and P.W.2, who are injured witness and whose evidence were corroborated with the medical evidence, this Court does not find any substantive reasons or any perversity in appreciation of evidence, illegality or infirmity in the judgment of the both the Courts below and there is no merit in the revision



Crl.R.C.No.268 of 2021

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and the same is liable to be dismissed.

15. In view of the above, this Criminal Revision Case is dismissed and the judgment dated 11.02.2021 passed in Crl.A.No.1 of 2021 by the learned Principal Sessions Judge, Villupuram, confirming the conviction and sentence passed by the learned Principal Assistant Sessions Judge, Kallakurichi in S.C.No.199 of 2013 dated 10.12.2020 is confirmed.

**12.10.2022**

Index: Yes/No  
Speaking Order/Non-Speaking Order  
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Crl.R.C.No.268 of 2021

**P.VELMURUGAN, J.**

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To

1. The Principal Sessions Judge,  
Villupuram.
2. The Principal Assistant Sessions Judge,  
Kallakurichi.
3. The Public Prosecutor,  
High Court, Madras.
4. The Station House Officer,  
Chinnasalem Police Station.

Crl.R.C.No.268 of 2021

12.10.2022

Page No.12/12