



CrI.O.P.No.25289 of 2021
in
CrI.A.SR.No.33779 of 2021

A.D.JAGADISH CHANDIRA, J.

(This case has been heard through Video conference)

The Petition has been filed to grant Special Leave to file Criminal Appeal against the Judgment dated 19.07.2019 passed by the learned Judicial Magistrate Fast Track Court at Magisterial level, Tiruchengode in C.C.No.140 of 2018, acquitted the respondents/accused.

2. Brief facts of the case is under:-

(a)The petitioner has filed the private complaint against the accused/respondent in C.C.No.140 of 2018 for offences under Section 294(b), 323 and 506(i) IPC.

(b) The case of the petitioner/complainant is that he is an agriculturist and R1 is working as Surveyor in Paramathi Taluk Office and R2 is R1's wife. The complainant is owning 5 1/2 acres of land in Survey No.77/2, Thottipalayam, Palaya Pulliyampatti, Tiruchengode. The accused



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having 13 acres of land near the land of the petitioner. Since, the first respondent is working as surveyor, he had fabricated the documents and had attempted to grab the property belonging to the petitioner and the petitioner was taking separate steps regarding the same and one Ponnamalai who was residing in the lands of the petitioner, was maintaining the petitioner's lands. On an earlier occasion, the R1 had assaulted the said Ponnamalai in respect of which the case in Crime No.421 of 2013 was registered against R1 for the offences under Sections 294(b), 323 & 506(i) and the investigation was going on the respondent often quarrelling with the petitioner and several complaints were pending.

(c) On 17.11.2011, at 7.30 am, when the petitioner was grazing three cows in his land, the R1 and his wife R2 has come near the petitioner and quarrelled with him and R1 had taken a machete which was hid inside his shirt and he had abused the petitioner with filthy language and attempted to cut the petitioner with the machete, the petitioner attempted to evade and thereby, he sustained a cut injury on his right shoulder. At that time, R2/ wife of R1 had assaulted the petitioner with a



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log of the garden hoe on the chest and the stomach of the petitioner and attempted to murder the petitioner and Senthil Kumar and Kandasamy, who were nearby had rushed to the spot and attempted to save the petitioner and the respondents have threatened the petitioner and left the scene of occurrence. The petitioner got himself admitted to Kongu Hospital, Tiruchengode and when he was under treatment, the Sub-Inspector of Police from Tiruchengode Rural Police Station had obtained the statement from him and registered a case in Crime No.478 of 2011 for the offences under Section 294(b), 324, 506(ii) IPC. Since, the Police did not conduct proper investigation and had supported the accused, the petitioner had preferred the private complaint. The Trial Court, took cognizance and issued summons to the accused and on their appearance, copies of the documents were furnished under Section 207 IPC and thereafter, the case was taken up for trial, charges were framed against the accused. The complainant examined PW1 to 4 and marked Ex.P1. On the side of the defence, no witnesses was examined. The Trial Court, after hearing both sides, by an order dated 19.07.2019, had acquitted the respondent/accused, stating that the petitioner has not proved the case



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beyond the reasonable doubts, against which the present appeal has been filed.

3. The learned counsel for the petitioner would submit that the trial Court had committed a grave error in acquitting the respondent. It is the case where the first respondent has assaulted the petitioner with a machete due to which he had sustained an injury. The second respondent had also assaulted the petitioner with wooden log. The petitioner by examining PW4/Doctor and by marking Ex.P1/wound certificate had proved the incident. The petitioner was admitted on 17.11.2011 at 8.30pm, Ex.P1/wound certificate was issued on 21.11.2011. The trial Court had disbelieved the evidence stating that the clothes worn by the petitioner were not produced and marked by the petitioner. The incident had happened in the farm land and there was no independent witnesses, at the time of occurrence and only after hearing the alarm of the petitioner the other witnesses have rushed to the scene of occurrence. The trial Court had erred in disbelieving the other witnesses also.



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4. Heard the counsel and perused the materials available on record.

5. In this case, the petitioner had examined himself as PW1 and examined one Ponnamalai as PW2 and Kandasamy as PW3 and the Doctor who treated the petitioner as PW4. As per the evidence of PW1/petitioner herein, there were earlier civil litigation pending between the parties and PW1 has stated that the occurrence was known to one Senthil Kumar and Kandasamy and on hearing the alarm, Kandasamy/PW3 and Senthilkumar (Not examined) rushed to the scene of occurrence and that the accused on seeing them had threatened the petitioner and ran away from the scene of occurrence. Further he had deposed that the first accused had shouted at him, why he was grazing cattle in his fields and that by saying so, attempted to cut him with machete and the Trial Court, finding that there was contradiction in his evidence with regard to the presence of witnesses and had doubted their statements. He had also not deposed about the presence of PW2/Ponnamalai at the time of occurrence. Further, Senthilkumar who is stated to have accompanied PW3 was also not examined.



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6. The trial Court finding that there was earlier litigation between the parties and that the evidence of the Doctor and Ex.P1 did not tally with the alleged manner in which the petitioner/PW1 is stated to have sustained injuries had disbelieved the case of the petitioner. Further, the trial Court had also not believed the presence of the other witnesses and had acquitted the respondent/accused.

7. This Court does not find any illegality or perversity in the findings of the Court below. The petitioner has not made out a ground for grant of leave to file the criminal appeal and the criminal original petition is dismissed accordingly.

10.01.2022.

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