



Crl.R.C.No.1431 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2022

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1431 of 2022

and

Crl.M.P.Nos.15898 & 15900 of 2022

S.Soundarrajan

... Petitioner

..VS..

State Represented by
The Sub-Inspector of Police,
Valangaiman Police Station,
Thiruvarur District,
Crime No.115 of 2018.

... Respondent

Criminal Revision Case filed under Sections 397 r/w 401 Cr.P.C to set aside judgment of conviction and sentence dated 13.08.2021 in C.C.No.14 of 2019 on the file of the District Munsif-cum-Judicial Magistrate, Valangaiman as confirmed by the judgment dated 15.6.2022 in C.A.No.13 of 2021 on the file of the Principal District and Sessions Court, Thiruvarur.

For Petitioner : Mr.D.Shivakumaran

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



Crl.R.C.No.1431 of 2022

WEB COPY

ORDER

This Criminal Revision Case has been preferred challenging the judgment dated 15.6.2022 passed in C.A.No.13 of 2021 by the learned Principal District and Sessions Judge, Thiruvarur, in and by which, confirmed the judgment of conviction and sentence dated 13.08.2021 passed in C.C.No.14 of 2019 by the learned District Munsif-cum-Judicial Magistrate, Valangaiman.

2. The case of the prosecution is that on 23.04.2018 at about 7.30 a.m., the *de facto* complainant one Uma Maheswari who is residing at Thiruppurampiyam village within the jurisdiction limit of Valangaiman Police limit went to her husband's house at Aandankovil Village for taking Income and Community certificates, at that time, the accused scolded her in a filthy language and assaulted her with wooden log in her right and left leg, hip and also criminally intimidated her, due to which she sustained simple injuries. Hence, the revision petitioner/accused has committed the offences punishable under Sections



Crl.R.C.No.1431 of 2022

294(b), 324 and 506(ii) IPC.

WEB COPY

3. On the complaint given by the *de facto* complainant/P.W.1, the respondent police registered a case in Crime No.115 of 2018 against the petitioner for the offence under Sections 294(b), 324 and 506(ii) IPC. On completion of the investigation, the respondent police filed a charge sheet against the petitioner for the aforesaid offences before the learned District Munsif-cum-Judicial Magistrate, Valangaiman and the same was taken on file in C.C.No.14 of 2019.

4. 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 marked 8 documents as Exs.P1 to P8 and no material object was exhibited. On the side of the defence, no oral and no documentary evidence was produced.

5. The trial Court, after hearing the arguments advanced on either side and also considering the materials available on record, found that the petitioner is not guilty for the offence under Sections 294(b) and 506(ii)



Crl.R.C.No.1431 of 2022

IPC and acquitted him for the said charges and found guilty for the offence under Section 324 IPC and convicted and sentenced him to undergo simple imprisonment for a period of two years and to pay a fine of Rs.1,500/-, in default, to undergo simple imprisonment for a further period of two months.

6.Challenging the said conviction and sentence, the petitioner preferred an appeal before the learned Principal District and Sessions Judge, Thiruvarur and the same was taken on file in C.A.No.13 of 2021. The learned Sessions Judge, after hearing the arguments advanced on either side and perused the materials, dismissed the appeal and confirmed the conviction and sentence passed by the learned Magistrate. Aggrieved by the same, the petitioner has filed the present revision.

7.1 The learned counsel for the petitioner submitted that originally the petitioner was charged for the offences under Sections 294(b), 324 and 506(ii) IPC and for lack of reliable evidence, the trial Court acquitted the petitioner for the alleged offences under Sections 294(b) and 506(ii)



Crl.R.C.No.1431 of 2022

IPC, however, on the very set of evidence, the trial Court has falsely convicted the petitioner for the offence under Section 324 IPC. He further submitted that during cross examination, the Doctor/P.W.7 has deposed that generally, if a person lost his balance and fell down, the injuries stated in the Accident Register Copy might have occurred. The trial Court failed to accept the above statement, but convicted the accused for the above said offence. He further submitted that all prime witnesses i.e. P.Ws.2, 3 and 4 who are the eye witnesses to the said occurrence and P.W.5 and P.W.6/Mahazar witnesses have turned hostile and they have not supported the case of the prosecution. From the evidence of P.W.7, the trial Court ought to have acquitted the petitioner for the offence under Section 324 IPC, but, failed to consider the same and convicted the petitioner.

7.2 The learned counsel for the petitioner further submitted that as per Ex.P5/wound certificate, the injuries sustained by the victim are simple in nature and therefore, the conviction and sentence under Section



Crl.R.C.No.1431 of 2022

WEB COPY

324 IPC is against law. During trial, the victim/P.W.1 has stated that she was admitted in the hospital by her neighbour one Ayyappan, whereas, the evidence of P.W.7/Doctor is that P.W.1/victim was brought to the hospital for treatment by her sister-in-law one Kannagi. Therefore, there is a discrepancy between the evidence of P.W.1 and P.W.7, which is serious in nature and the same would go to the root of the case of the prosecution. The trial Court failed to appreciate the evidence of P.W.7/Doctor especially during cross examination, which creates doubt on the case of the prosecution. He further submitted that as per the prosecution, the accused alleged to have assaulted the victim/P.W.1 with a wooden log, however, the prosecution has not recovered the same and marked as a material object before the trial Court, but without any acceptable evidence, the trial Court wrongly convicted and sentenced the revision petitioner for the offence under Section 324 IPC. The *de facto* complainant is none other than the wife of the revision petitioner and due to wordy quarrel she made a false complaint against the petitioner. Subsequently, she realised it and not supported the case of the



Crl.R.C.No.1431 of 2022

prosecution. The trial Court failed to appreciate that prime witnesses were turned hostile and not supported the case of the prosecution and only based on the evidence of P.W.1, the trial Court convicted and sentenced the petitioner for the offence under Section 324 IPC. Therefore, the revision has to be allowed and the judgment of conviction and sentence passed by the trial Court as well as the appellate Court is liable to be set aside.

8. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner assaulted the victim with wooden log and caused simple injuries in her both legs, hip, back and neck and the same is corroborated with the evidence of P.W.7/Doctor. The trial Court has rightly appreciated the entire oral and documentary evidence and convicted and sentenced the petitioner and hence, prayed for dismissal of the revision.

9. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and also perused the
Page No.7/13



Crl.R.C.No.1431 of 2022

materials available on record.

10. Since the present revision is against the judgment of trial Court and the appellate Court, this Court after hearing the arguments advanced on either side and gone through the entire materials and also considering the facts decide the revision at the admission stage itself.

11. Admittedly, the revision petitioner and the *de facto* complainant are husband and wife. The *de facto* complainant/P.W.1 was alleged to have assaulted by the accused with a wooden log and she sustained injuries, hence, the petitioner was charged for the offences under Sections 294(b), 324 and 506(ii) IPC. After trial, the trial Court acquitted the petitioner for the offences under Sections 294(b) and 506(ii) IPC and convicted and sentenced him for the offence under Section 324 IPC.

12. During trial, the victim, who is a injured witness was examined as P.W.1 and she had clearly narrated the said incident and injuries



Crl.R.C.No.1431 of 2022

WEB COPY

sustained by her. P.W.7/Doctor, who examined the victim has clearly deposed that on 23.04.2018, when he was on duty P.W.1 was brought by her brother's wife Kannagi for treatment and told that she was assaulted by one known person with wooden log. On clinical examination, he examined the injuries sustained by the victim and recorded Ex.P4/Accident Register and also given Ex.P5/wound certificate. Hence, the evidence of the P.W.1/victim is corroborated with the medical evidence.

13. The learned counsel for the petitioner vehemently contended that there is a contradiction between the evidence of P.W.1 and P.W.7 regarding who brought the victim to the hospital for treatment. However, in the Ex.P4/Accident Register Copy, the Doctor has opined that one known person had assaulted the victim with wooden log and that the victim sustained simple injuries and he had given Ex.P5/wound certificate to that effect. Though all the prime witnesses turned hostile, but they admitted regarding the complaint and admission of the victim in



Crl.R.C.No.1431 of 2022

the hospital and hence, the prosecution has proved that the victim sustained injuries. Therefore, the contradictions pointed out by the learned counsel for the appellant are only minor contradictions, and they are not material contradictions and that would not affect the case of the prosecution.

14. Therefore, from the evidence of P.W.1/Victim, P.W.7/Doctor, Ex.P4/Copy of the Accident Register, Ex.P5/Wound Certificate, the trial Court found that the revision petitioner had committed the offence under Section 324 IPC. Since all the prime witnesses have turned hostile and there are no materials to show that the petitioner scolded the victim in filthy language and threatened her with dire consequences, the petitioner was acquitted for the offences under Sections 294(b) and 506(ii) IPC. The appellate Court as a fact finding Court also re-appreciated the entire evidence and rightly found the petitioner guilty for the offence under Section 324 IPC.



Crl.R.C.No.1431 of 2022

WEB COPY

15.The scope of revision is very limited. Since the Trial Court and the Appellate Court had already appreciated and re-appreciated the entire evidence and also given findings, this Court while exercising the revisional jurisdiction 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.

16. On a combined reading of the evidence of P.W.1/victim, P.W.7/Doctor, Ex.P4/Accident Register Copy and Ex.P5/wound certificate and judgments of both the Courts below, this Court does not find any perversity in the judgments of the Courts below.

17. In view of the above, this Criminal Revision Case is dismissed and the judgment dated 15.6.2022 passed in C.A.No.13 of 2021 by the learned Principal District and Sessions, Thiruvarur, is confirmed. Consequently, connected miscellaneous petitions are closed.

26.10.2022

Index: Yes/No
Speaking Order/Non-Speaking Order

Page No.11/13



WEB COPY



Crl.R.C.No.1431 of 2022



WEB COPY



Crl.R.C.No.1431 of 2022

P.VELMURUGAN, J.

ms

To

- 1.The District Munsif-cum-Judicial Magistrate,
Valangaiman.
- 2.The Principal District and Sessions Judge,
Thiruvarur.
- 3.The Sub-Inspector of Police,
Valangaiman Police Station,
Thiruvarur District.
- 4.The Public Prosecutor,
High Court, Madras.

Crl.R.C.No.1431 of 2022
and

Crl.M.P.Nos.15898 & 15900 of 2022

26.10.2022