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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.01.2022

CORAM :

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.R.C.No.162 of 2017

Karal Marx

... Petitioner /6<sup>th</sup> accused

Vs.

State rep.by  
The Inspector of Police,  
Uthangarai Police Station,  
Krishnagiri District.

... Respondent

PRAYER : Criminal Revision Case has been filed under sections 397 read with 401 of Criminal Procedure Code to call for the records in C.A.No.2 of 2016 dated 09.09.2016 on the file of the Additional District and Sessions Judge, Krishnagiri, confirming the conviction and sentence imposed in S.C.No.124 of 2013 dated 30.06.2015 on the file of the Assistant Sessions Judge, Uthangarai and set aside the same.

For Petitioner :Mr.Sanakarasubbu  
for M/s.S.Rajanikanth

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

O R D E R

This Criminal Revision Case has been preferred challenging the judgment of the learned Additional District and Sessions Judge, Krishnagiri, dated 09.09.2016, made in C.A.No.2 of 2016, which confirmed the judgment of the learned Assistant Sessions Judge, dated 30.06.2015 made in S.C.No.124 of 2013.

2. The revision petitioner is the 6<sup>th</sup> accused before the trial Court. The case of the prosecution is that in a group clash between two factions of the village, quarrel arose between themselves. The accused formed part of an unlawful assembly with a common intention to attack the faction of Ramar/PW.1; on



31.01.2013, when PW.1 was standing in front of his house, the accused formed the unlawful assembly and armed with weapons, abused PW.1 and thereafter, the accused attacked him with hands and knife and caused injuries on several parts of his body. The accused attacked Ramu/PW.2, Krishnamoorthy/PW.3, Dhanamoorthy/PW.4 and Sudhakaran/PW.5 with weapons, hands and legs and threatened that they would kill them. The allegations against this revision petitioner, who is the 6<sup>th</sup> accused, is that by forming part of the unlawful assembly he attacked Ramar/PW.1, Krishnamoorthy/PW.3 and Sudhakaran/PW.5 and caused injuries on them.

3. On the complaint statement given by PW.1 on 31.01.2013 from the hospital, a case was registered by PW.13-Sivalingam / the Inspector of Police in Crime No.38 of 2013 of Uthangarai Police station for the offences under Sections 147, 148, 294(b), 341 and 506(ii) IPC. The investigation was also taken up by PW.13. He went to the place of occurrence, prepared the Observation Mahazar and rough sketch in the presence of witnesses. He enquired the witnesses and arrested some accused along with the revision petitioner. The confession statement has been given by A7 (Deivam) and on his confession PW.13 also recovered material objects M.O.Nos.1 and 2 under the Seizure Mahazar Ex.P.3. He also enquired the doctor, who treated the injured witnesses, and recorded the statement and got the wound certificates. Some of the accused were released on anticipatory bail. He filed the charge sheet against the accused after completing the investigation under Sections 147, 148, 294(b), 323, 324, 341, 307 and 506(ii) r/w. 149 IPC.

4. After the case was taken on file and on being satisfied with the materials available on record, the learned trial Judge has framed the charges against this revision petitioner/accused for the offence under Sections 147, 148, 294(b), 323, 341 and 506 (ii) IPC. When the revision petitioner was questioned, he pleaded innocence and claimed to be tried.

5. During the course of the trial, on side of the prosecution, thirteen (13) witnesses were examined as PW.1 to PW.13 and fourteen (14) documents and two (2) Material Objects have been marked as Ex.P1 to Ex.P14 and M.O.Nos.1 and 2. When the revision petitioner was questioned under Section 313 Cr.P.C., with regard to incriminating materials available on record, he denied the same. On the side of the defence, no witness was examined and no document was marked.



6. After the conclusion of the trial and on consideration of the materials available on record, the learned trial Judge had found A1 to A4 and A6 guilty under various charges and convicted them. So far as this revision petitioner/A6 is concerned, he was found guilty for the offence under Section 324 IPC alone and was imposed with a fine of Rs.1,000/-; in default to undergo six months Simple Imprisonment.

7. The appeal filed by the revision petitioner/6<sup>th</sup> accused along with some of the accused in C.A.No.2 of 2015 was also dismissed on 09.09.2016. Aggrieved over that, the 6<sup>th</sup> accused has filed this criminal revision case.

8. Heard the learned counsel for the revision petitioner/accused and the learned Government Advocate (Crl.side) for the State.

9. The learned counsel for the revision petitioner/accused submitted that there was previous enmity between the father of the 6<sup>th</sup> accused and PW.1/Ramar in connection with the election activities; the 6<sup>th</sup> accused is an educated person and a trainer; he is getting some prosperous income; the learned trial Judge found that the revision petitioner/6<sup>th</sup> accused was not a member of unlawful assembly and he was acquitted from all other charges except the charge under Section 324 IPC; the 6<sup>th</sup> accused could not have stabbed PW.1, PW.3 and PW.5 without being a part of the unlawful assembly; there are contradiction between the evidence of the injured witnesses and eye witnesses; the medical examination also does not tally with the manner in which the 6<sup>th</sup> accused is said to have attacked PW.1. PW.3 and PW.5; the learned trial Judge without giving due opportunity to the appellants to advance their arguments had passed the judgment in a hurried manner; since there is no material available on record to find the revision petitioner/ 6<sup>th</sup> accused guilty for the offence under Section 324 IPC, the criminal revision case should be allowed.

10. The learned Government Advocate (Crl.side) appearing for the State submitted that the evidence of the injured witnesses are clear enough to convict the 6<sup>th</sup> accused for the offence under Section 324 IPC; all the injured witnesses are uniformly stated the overtact in the occurrence and that they got injured; the learned trial Judge has rightly found the 6<sup>th</sup> accused guilty for the offence under Section 324 IPC; after having filed an appeal, the accused did not pursue the appeal and only because of that the learned first appellate Judge had



dealt the appeal on merits on the basis of the records available and passed the judgment confirming the judgment of the trial Court. Hence the revision case does not require interference.

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11. Points for consideration:

Whether the judgement of the trial court suffer from any factual or legal infirmity so as to warrant my interference?

12. The occurrence is said to have been in a group clash between two factions. It is seen from the case of the prosecution that one Ramar was leading one faction and A2 Sekar was leading the other faction. Due to some local issue, the accused gathered in groups and started attacking each other. In the said occurrence, it is stated that the 6<sup>th</sup> accused had stabbed PW.1, PW.3 and PW.5 and caused injuries on them.

13. The learned counsel for the revision petitioner submitted that the 6<sup>th</sup> accused who was not a party to the unlawful assembly was not at all involved in the occurrence. He further submitted that since he has attacked a person in the village he has been falsely implicated in this case with some ulterior motive. He has further stated that since it was a group clash, there were large number of people and hence it would be difficult for anyone to tell about the exact occurrence. However, the injured witnesses, can, to some extent identify who attacked them and caused injuries on them. The specific allegations of PW.1, PW.3 and PW.5 is that the 6<sup>th</sup> accused had stabbed them with knife and caused stab injuries on them. However the doctor/PW.12 who examined PW.3 and PW.5 and treated them has stated in his evidence that the specific injuries seen on the bodies of PW.1, PW.3 and PW.5 are not stab injuries. Since the very allegations of the prosecution is that the 6<sup>th</sup> accused had caused stab injuries on PW.1, PW.3 and PW.5, the injuries should have been stab injuries. Since the evidence of the doctor who treated PW.1, PW.3 and PW.5, do not tally with the type of injuries that would have been caused on them, if they got stabbed with a knife, it creates doubt on the case of the prosecution.

14. In view of the same, the Courts below ought to have given the benefit of doubt to the 6<sup>th</sup> accused before convicting him for the offence under Section 324 IPC. Considering the above facts and circumstances and also the contradiction between the medical evidence and the oral evidence, I feel that the 6<sup>th</sup> accused has to be given the benefit of doubt and for that reason the judgment of the first appellate Court as against the 6<sup>th</sup> accused is liable to be set aside.



15. In the result, this Criminal Revision Case is allowed the judgment of the learned Additional District and Sessions Judge, Krishnagiri, dated 09.09.2016 passed in C.A.No.2 of 2016 is set aside, as against the revision petitioner/ 6<sup>th</sup> accused.

SD/-  
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

1. The Additional District and Sessions Judge,  
Krishnagiri.
2. The Assistant Sessions Judge,  
Uthangarai.
3. The Inspector of Police,  
Uthangarai Police Station,  
Krishnagiri District.
4. The Public Prosecutor,  
High Court, Madras.

Copy to

The Section Officer,  
Criminal Section,  
High Court of Madras.

+1cc to M/s.S.Rajanikanth, Advocate Sr.3340

Cr1.R.C.No.162 of 2017

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srg 10/02/2022