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Crl.R.C.No.175 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2022

CORAM:

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

Crl.R.C.No.175 of 2020

D. Arun ... Petitioner

Vs

1. P.Subramani

2. M.Ganapathi,
Sub-Inspector of Police,
Latheri Police Station,
Latheri,
Vellore District – 632 202.
(Crime No.257 of 2004)

... Respondents

Prayer: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C, to set aside the order dated 21.10.2019 made in Crl.Appeal No.98 of 2017 passed by the I Additional District and Sessions Court, Vellore in Crl.M.P.No.697 of 2017 by the learned Judicial Magistrate, Katpadi and pleaded to take necessary and essential legal actions against a) The 1st, 2nd respondents for involved in the criminal activities against the petitioner (b) for with willfully intently furnished of false evidences in the open court by the 1st and 2nd respondents against the petitioner (c) U/s. 294(b), 323 & 325 of IPC 1860 with fine with punishments to pass



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against the 1st, 2nd respondents for punishment passed to the petitioner and (d) to recommend to the police department to take necessary and essential legal action against the 2nd respondent for involved in the criminal activities (false evidence's had furnished with willfully & intently in the open court by received money, false recorded evidence's, produced false witness's) against the petitioner.

For Petitioner : Mr.D.Arun (Party-in-person)
For R1 : Mr.E.Kannadasan
For R2 : No Appearance

ORDER

This Criminal Revision Case has been filed to set aside the order dated 21.10.2019 made in Crl.Appeal No.98 of 2017 passed by the I Additional District and Sessions Court, Vellore, thereby confirming the order dated 12.06.2017 made in Crl.M.P.No.697 of 2017 passed by the learned Judicial Magistrate, Katpadi

2. The petitioner was charged for the offence punishable under Sections 294(b) and 325 of IPC in C.C.No.31 of 2014 on the file of the Judicial Magistrate, Katpadi. Before the Trial Court, he was found guilty for the offence under Sections 294(b) and 325 of IPC and for the offence under Section 325 of IPC to undergo Rigorous Imprisonment for a period of one year and also to pay a fine of Rs.1,000/- in default to undergo and



for the offence under Section 294(b) of IPC, he was sentenced to undergo Rigorous Imprisonment for six months and also to pay a fine of Rs.1,000/- in default to undergo Simple Imprisonment for four months and to pay a fine of Rs.500/- in default to undergo Rigorous Imprisonment for three weeks.

3. Aggrieved by the same, the petitioner filed an appeal in Crl.A.No.17 of 2014 before the Principal District and Sessions Court, Vellore. The Appellate Court acquitted the petitioner and set aside the conviction and sentence imposed on the petitioner herein. After acquittal, the petitioner filed Writ Petition before this Court in W.P.No.67 of 2016 for compensation to the tune of Rs.270 Crores together with an interest at the rate of 5% per month, for the reason that the loss suffered by him was due to false prosecution. The writ petition was dismissed by this Court by an order dated 04.03.2016 and the Hon'ble Division Bench of this Court in W.A.No.349 of 2016 confirmed which the order passed by the learned Single Judge of this Court. In fact, the petitioner has also challenged the same before the Hon'ble Supreme Court of India in SLP (Civil) No. 6299 of 2016 and the same was also dismissed by an order dated 17.10.2016.



4. Thereafter, the petitioner filed a complaint under Section 340 of Cr.P.C. for perjury on the ground that as a false evidence put forth by the respondents 1 and 2 herein. He pointed out the contradictions found in the evidence of the second respondent, who was examined as P.W.8, and the evidence adduced by P.Ws.6 and 7, who are the attestors to the observation mahazar. On perusal of their evidence, it is seen that both the attestors have spoken that two or three days after the occurrence, the police came and prepared the observation mahazar.

5. The evidence adduced by the second respondent/P.W.8 reveals that Ex.P2-Observation Mahazar and Ex.P4-Rough Sketch were prepared by him on 28.09.2004. Accordingly, P.W.8 deposed before the Trial Court. P.Ws.6 and 7 have deposed evidence contrarily to their statements recorded under Section 161 of Cr.P.C. The petitioner was not cross examined before the Trial Court and they were not even recalled after remand and was not cross examined by the petitioner herein. Though there are minor contradictions available on record in the evidence of the prosecution side in mentioning the date and time. However, considering the time when they have been examined by the police, those minor



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contradictions are not basis for acquittal. That apart, the first respondent deposed about the manner in which he had suffered injury at the hands of the petitioner. The minor contradiction would not amount to false evidence. That apart, the minor contradictions pointed out cannot be termed as false evidence. Therefore, the Trial Court rightly dismissed the complaint filed by the petitioner and the Appellate Court rightly dismissed the appeal and confirmed the order passed by the Trial Court.

6. This Court finds no infirmity or illegality in the order passed by the Courts below. Accordingly, this Criminal Revision Case stands dismissed.

27.09.2022

Internet:Yes
Index:Yes/No
Speaking/Non speaking order
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G.K.ILANTHIRAIYAN. J,



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To
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1. The I Additional District and Sessions Judge,
Vellore.
2. The Judicial Magistrate,
Katpadi.

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