



Crl.R.C.No.1192 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2022

CORAM

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

Crl.R.C.No.1192 of 2018

1. Dhandapani
2. Ponraj
3. Ganeshan

... Petitioners

Vs.

The State by
The Sub Inspector of Police,
Kaniyur Police Station,
Crime No.848 of 2010,
Madathukulam Taluk,
Tiruppur District.

... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C to call for the records relating to the conviction imposed in the judgment dated 09.10.2018 made in C.A.No.111 of 2017 on the file of the learned III Additional District and Sessions Judge, Tiruppur, at Dharapuram confirming the conviction imposed in the judgment dated 17.11.2017 made in C.C.No.85 of 2011 on the file of the learned Judicial Magistrate No.2, Udumalpet and set aside the same by allowing this Criminal Revision Petition.



Crl.R.C.No.1192 of 2018

For Petitioners : Mr.D.R.Arun Kumar

For Respondent : Mr.A.Gopinath

Government Advocate (Crl.Side)

ORDER

This Criminal Revision case has been filed as against the Judgment passed in C.A.No.111 of 2017 dated 09.10.2018, on the file of the learned III Additional District and Sessions Judge, Tiruppur, confirming the judgment passed in C.C.No.85 of 2011 dated 17.11.2017, on the file of the learned Judicial Magistrate No.2, Udumalpet, thereby convicted the petitioner for the offence punishable under Sections 323 and 324 of IPC.

2. The case of the prosecution is that the defacto complainant and the accused are adjacent land owners. The defacto complainant is also having a lease hold rights over the land situated adjacent to the land belong to the accused. He cultivated maize crops in the said land. The crops were at the stage of harvesting. On 14.07.2010 at about 07.00 a.m, when the defacto complainant came nearer to his land, he noticed that all the accused persons were harvesting his crops. When he questioned them



Crl.R.C.No.1192 of 2018

about harvesting the maize, the accused scolded the defacto complainant in filthy language. They also attacked the defacto complainant with bill-hook. The defacto complainant sustained grievous injuries on his left and right side of the head, left wrist and fingers. The accused persons attacked the defacto complainant with bill-hook and wooden stick on his left leg, due to which he also sustained injuries on his left leg. Hence, the complaint.

3. On receipt of the complaint, the respondent registered FIR in Crime No.848 of 2010 for the offences punishable under Sections 326 and 506(ii) of IPC. After completion of investigation, the respondent filed a final report for the offences punishable under Sections 326 and 506(ii) of IPC as against A1 and Section 326 of IPC as against A2 and A3 and the same has been taken cognizance in C.C.No.85 of 2011 on the file of the learned Judicial Magistrate No.2, Udumalpet.

4. In order to bring home the charges, the prosecution had examined P.W.1 to P.W.8 and marked Exs.P1 to P7. The prosecution had



Crl.R.C.No.1192 of 2018

also produced M.O.1. On the side of the petitioners, no one was examined and no document was marked. On a perusal of oral and documentary evidences, the Trial Court found A1 guilty for the offence punishable under Section 324 of IPC. A2 and A3 were found guilty for the offence punishable under Section 323 of IPC. A1 was sentenced to undergo six months simple imprisonment with a fine of Rs.3000/-, in default to undergo one month simple imprisonment for the offence under Section 324 of IPC. A2 and A3 were sentenced to undergo three months simple imprisonment, each, with a fine of Rs.1000/-, each in default to undergo fifteen days simple imprisonment, each, for the offence under Section 323 of IPC. Aggrieved by the same, the petitioners preferred an appeal and the same was dismissed confirming the Judgment passed by the Trial Court. Hence, this revision.

5. The learned counsel for the revision petitioners would submit that according to the case of the prosecution, P.W.1 sustained fracture on his fingers. It would not be possible, if A1 had used a bill-hook as alleged by the prosecution. If, A1 had attacked P.W.1 with a bill-hook, definitely



Crl.R.C.No.1192 of 2018

all the fingers of P.W.1 would be severed. Whereas, he sustained only minor fracture on his fingers. The other eye witnesses P.W.3 and P.W.4, turned hostile and no independent witness was examined by the prosecution to prove the charges. P.W.2 was also a hear say witness. Except the defacto complainant's evidence, no other witness corroborated the evidence of P.W.1. The injuries sustained by P.W.1 are also not proved by examining the Doctor, who treated P.W.1. The Doctor also deposed that except the third injury, other injuries are simple in nature. Therefore, the prosecution failed to prove its case beyond any doubt and the benefit of doubt should be given in favour of the petitioners rather convicting them on mere presumption.

6. Per contra, the learned Government Advocate (Crl.Side) would submit that the victim was examined as P.W.1. The victim's evidence is the best evidence and on his deposition alone, the accused can be convicted. P.W.1 categorically deposed that the petitioners attacked P.W.1 with bill-hook and wooden log, due to which, he sustained grievous injuries. In fact, the respondent did not file the charge sheet as against the



Crl.R.C.No.1192 of 2018

second petitioner herein. After a direction was issued by this Court, the respondent filed additional final report, impleading the second petitioner herein for these offences. Therefore, the prosecution proved its case beyond any doubt and the Courts below rightly convicted the petitioners for the offences under Sections 323 and 324 of IPC.

7. Heard, Mr.D.R.Arun Kumar, learned counsel appearing for the petitioners and Mr.A.Gopinath, learned Government Advocate (Crl.Side) appearing for the respondent.

8. Admittedly, the petitioners and P.W.1 are neighbours and the adjacent land owners. There was a boundary dispute between the petitioners and P.W.1. The petitioners had harvested the crops which was standing in the land belonging to P.W.1. When it was questioned by the defacto complainant, the accused attacked him.

9. A perusal of the deposition of P.W.1 revealed that A1 had attacked P.W.1 with “kathir aruval” and caused puncture injuries on left



Crl.R.C.No.1192 of 2018

and right side of his head and on the left wrist just above the little finger.

A2 and A3 had assaulted P.W.1 with wooden log, due to which he sustained injuries on his right thumb, left-leg below the knee. The left elbow was also fractured. He also deposed that three fingers on his left hand were severed. P.W.1 was treated by P.W.5, who deposed that P.W.1 was brought by his son-in-law to the Government Hospital, Udumalpet. He issued wound certificate, which was marked as Ex.P2. Ex.P2 revealed that there were five injuries, in which the third injury was a grievous one. Therefore, though P.W.3 and P.W.4 turned hostile, the evidence of P.W.1 was corroborated by Ex.P2 and the deposition of the Doctor.

10. Therefore, the Courts below rightly convicted the petitioners and this Court finds no reason to disbelieve the case of the prosecution. However, considering the age of the petitioners, this Court is inclined to reduce the sentences imposed on the petitioners. Accordingly, while confirming the conviction imposed as against the petitioners for the offences under Sections 323 and 324 of IPC, the sentences imposed on them alone are reduced to the period of incarceration which was already



Crl.R.C.No.1192 of 2018

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undergone by them, on condition that the petitioners shall jointly pay a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) as compensation directly to P.W.1, by way of Demand Draft, on or before 23.12.2022, failing which, the conviction and sentence imposed on the petitioners by the Courts below, shall stand restored.

11. Accordingly, this Criminal Revision case is partly allowed.

22.11.2022

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mn



Crl.R.C.No.1192 of 2018

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To

1. The III Additional District and Sessions Judge, Tiruppur, at Dharapuram.

2. The Judicial Magistrate No.2, Udumalpet.

3. The Sub Inspector of Police,

Kaniyur Police Station,
Madathukulam Taluk,
Tiruppur District.

4. The Public Prosecutor,

High Court, Madras.



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Crl.R.C.No.1192 of 2018

G.K.ILANTHIRAIYAN, J

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Crl.R.C.No.1192 of 2018

22.11.2022