



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 25.01.2022

Delivered on : 15.03.2022

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C. (MD)No.46 of 2022

and

Crl.M.P. (MD)No.932 of 2022

1.Murugan @ Vaiko Murugan
2.Chinnapandi
3.Selvam

.. Petitioners / Petitioners/
Appellants

Vs.

State
Represented by
The Inspector of Police,
Nanguneri Police Station,
Tirunelveli District.
(Crime No.127 of 2008)

.. Respondent / Respondent/
Respondent

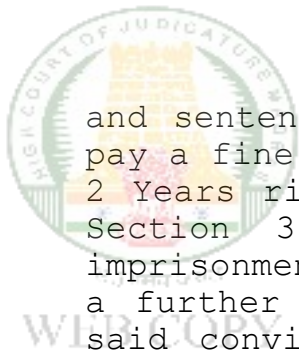
Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the entire records relating to the order of the III Additional District and Sessions Judge, Tirunelveli, dated 19.12.2021, in Cr.M.P.No.2337 of 2021 in C.A.No.59 of 2016 set aside the same.

For Petitioners	: Mr.S.Ramasamy
For Respondent	: Mr.K.Sanjay Gandhi Government Advocate

ORDER

This revision has been filed to set aside the order of the III Additional District and Sessions Judge, Tirunelveli, dated 19.12.2021, in Cr.M.P.No.2337 of 2021 in C.A.No.59 of 2016.

2. The case against the petitioners is that the petitioners trespassed into the house of the witness, Nallakannu, and attacked one Nallakannu, Chelladurai, Malini and Vanumamalai. A case in crime No. 127 of 2008 was registered against the petitioners under Sections 452, 454, 455, 307, 506 (ii) and 109 I.P.C. The case was taken on file as C.C.No.243 of 2011 on the file of the Additional Sessions Court, Valliyoor. The Additional Sessions Court, found the petitioners guilty and convicted the petitioners under Sections 452



and sentenced them to undergo 5 years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo a further period of 2 Years rigorous imprisonment and convicted the petitioners under Section 307 and sentenced them to undergo 7 years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo a further period of 2 Years rigorous imprisonment. Against the said conviction and sentence, the petitioners filed an appeal in C.A.No.59 of 2016 on the file of the III Additional District and Sessions Judge, Tirunelveli. The petitioners filed a petition under Section 391 Cr.P.C. in Cr.M.P.No.2337 of 2021. That petition was dismissed by the Appellate Court. Against the same, the petitioners have filed this Revision.

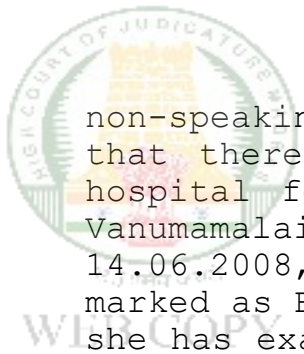
3. On the side of the revision petitioners, it is further stated that X-Ray was not marked before the trial Court. The observation of the trial Court that the right hand was amputated in the occurrence is not correct. The age of the wound was not proved by the prosecution. The person, who registered the F.I.R, was not examined as a witness and prayed the impugned order to be set aside.

4. On the side of the revision petitioners, it is stated that P.W.16- Doctor Josphin Kalyani, has stated that X-Ray was taken and that X-Ray was not produced before the Court. The X-Ray and X-Ray report are vital documents to prove that the right hand of the P.W.4 was severed. The alleged occurrence is said to have taken place, on 14.06.2008. But, P.W.4 was examined before the Court, on 01.09.2016, when and where the right hand was severed was not proved by the prosecution. Without X-Ray report, the nature of the wound cannot be proved. Examination of Madasamy, who registered the F.I.R is also necessary. The X-Ray is to be marked and the Doctor, who took X-Ray also has to be examined.

5. On the side of the revision petitioners, it is stated that the further evidence of P.W.16- Doctor is necessary and one Madasamy, who was the writer attached to the respondent police station and who registered the F.I.R has to be examined. Without mentioning any reasons, the Appellate Court has come to a conclusion that the hand of the P.W.4 was amputated in the occurrence and the Court has passed a one line non-speaking order and prayed the impugned order to be set aside.

6. On the side of the respondent, it is sated that in Para-21 of the Judgment of the trial Court, it is clearly mentioned that X-Ray was not required to prove the injury, since the amputation of the hand was visible. Only to drag on the proceedings, the petitioners have come forward with this petition and prayed the petition to be dismissed.

7. This Court called for the records from the appellate Court. From a perusal of the records, it is seen that the appellate Court has passed a detailed order on merits and not a single line



non-speaking order. On verification of the A.I.R. Copy, it is clear that there was amputation. When the said Vanumamalai, went to the hospital for treatment on 14.06.2008, at about 2.20 pm, the said Vanumamalai has stated before the Doctor that he got injuries on 14.06.2008, at about 1.30 pm. Copy of the wound certificate was marked as Ex.P8. P.W.16-Doctor - Josphin Kalayani has deposed that she has examined P.W.4 and that there was injuries in the hands and that right hand was amputated and the left hand was partially amputated. From the evidence of P.W.16 and from Ex.P8, it is clear that the witness was injured on 14.06.2008. The nature of the injury was also clear from the evidence of P.W.16 and from Ex.P.8.

8. The petitioners have not filed any petition to recall P.W.16 or to examine the writer, who registered the F.I.R, before the trial Court. The petitioners have not filed any petition before the trial Court to call for the X-Ray from the Government Hospital. Only at the stage of appeal, the petitioners have come forward with this petition. Getting an X-Ray from the Government Hospital, after a lapse of 14 years will not be of any use. There is possibility of the X-Ray to have been misplaced or destroyed or to have faded during this time. Amputation of the hand can be seen with bare eyes and there is no necessity for proving the same through X-Ray.

9. For the above reasons, it is decided that there is no reasons sufficient enough to interfere in the order of the appellate Court. In the above circumstances, this Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(writs)

/TRUE COPY/

/ /2022

Sub Assistant Registrar(CS)

To

- 1.The III Additional District and Sessions Judge,
Tirunelveli.
- 2.The Inspector of Police,
Nanguneri Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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MK/05.04.2022/3P/4C