



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.R.C.(MD).No.550 of 2016

Balamurugan .. Petitioner/Appellant/Accused No.1

Vs.

State Rep by
The Inspector of Police,
Gandhi Market Police Station,
Trichy.

Crim No.292 of 2013 .. Complainant

Prayer:- Criminal Revision petition is filed under Section 397 r/w 401 Cr.P.C, to call for the records and set aside the judgment dated 22.06.2015, passed in S.C.No.159 of 2014 by the 2nd Additional Assistant Sessions Court, Trichirappalli, as confirmed by the judgment dated 05.04.2016 and passed in C.A.No.45 of 2015 by the 3rd Additional District Judge, Tiruchirappalli.

For Petitioner : Mr.Maheswaran

For Respondent : Mr.S.Manikandan,
Government Advocate (Crl.Side)

ORDER

This Criminal Revision case has been preferred against the order, passed by the 2nd Additional Assistant Sessions Court, Trichirappalli, in

S.C.No.159 of 2014, judgment dated 22.06.2015, and confirmed by the



the 3rd Additional District Judge, Tiruchirappalli, in C.A.No.45 of 2015,

judgment dated 05.04.2016.

2.The case of the prosecution in brief:-

On 08.05.2013, at about 10.30 p.m, the defacto complainant was returning to his house, through motor bike, at that time, the accused No.1 to 3 waylaid the defacto complainant stating that because of him, they were lost their job. The first accused caused assault with knife on the right hip region. The second accused caused assault with knife on the left hip region. When the third accused tried to cause assault in the chest portion, that was prevented by him. It caused injury on the right fore arm. Based on the above said occurrence, complaint was registered and after completing the investigation final report was filed, it was tried by the 2nd Additional Assistant Sessions Court, Trichirappalli, in S.C.No.159 of 2014 for the offence under Section 341, 307 r/w 34, 120 (b) of IPC.

3.At the conclusion of the trial, the accused No.2 & 3 were acquitted and the accused No.1, who is the petitioner herein was convicted for the offence under Section 341 IPC and sentenced him to undergo Simple Imprisonment for a period of 1 month and convicted him for the offence under Section 307 IPC and sentenced him to undergo



Rigorous Imprisonment for a period of 5 years and to pay a fine of Rs.5,000/-, in default to undergo Rigorous Imprisonment for a period of 4 months. The above sentences were ordered to run concurrently.

4.Above said judgment of conviction and sentence, appeal has been preferred before the 3rd Additional District Judge, Tiruchirappalli, in C.A.No.45 of 2015. By the judgment, dated 05.04.2016, conviction and sentence were confirmed. Against which, this revision has been preferred.

5.The learned counsel for the revision petitioner has relied upon the various circumstances. Mainly pointed out that there are material contradiction between the statement that was given by P.W.1 before the Doctor, in the complaint and evidence etc., The trial Court has disbelieved the evidence of P.W.4 and 5. Except the injured witness, no other independent witnesses were examined or supported the case of the prosecution. Even as per the case of the prosecution as well as the evidence of P.W.1, this petitioner alleged to have caused injury on the right side hip region and other injuries were alleged have been caused by the co-accused namely, 2 & 3.



6. Now, he relies upon the medical evidence. The Medical Officer, who admitted and treated the injured was examined as P.W.11. He stated in his evidence that on 08.05.2013, he admitted the injured. At that time, he told that he was assaulted by 3 unknown persons. He was found conscious and on examination, 3 injuries were found. The first injury was measuring 2 X 2 c.m on the right shoulder. The second stab injury on the front side of the right chest measuring about 2 x 3 c.m and the third stab injury on the back side of the left chest measuring about 3 x 2 c.m. He was subjected to X-Ray examination. But, without proper intimation, the injured absconded. So, he was not in a position to give opinion with regard to the nature of injury. That was suffered to the injured.

7. Now, P.W.12 is another Doctor. He was working in the Kauvery Medical Centre, Trichy. It appears that after absconding from the Government Hospital, Trichy, the injured was admitted in the Kauvery Medical Centre, Trichy. So, on the basis of the records, he has given evidence. The Doctor, who treated injured has discontinued his service in the hospital. He would say that on the left shoulder region, the stab injury measuring about 4 x 2 c.m and stab injury on the right fore arm measuring about 2 x 1 c.m and another stab injury on the right hip region, through the above injury, the intestine portion was oozing out,



which was measuring about 5 x 4 x 5 c.m. The above said stab injury was very deep and extended up to the lung region. So, on that basis, those injuries were found grievous.

8. Now with this, come back to the evidence of P.W.1, he would say that, the first accused namely, Balamurugan caused assault in his chest portion. The accused No.2 & 3 caused assault with knife on back stomach and fore arm. Again, the first accused caused assault in the fore arm region.

9. By pointing out this evidence, the learned counsel for the revision petitioner would submit that the injury that has been suffered by P.W.1 was not caused by the petitioner. Because as per the evidence of the injured, he caused assault only on the right fore arm and other grievous injury caused only by the co-accused. During the cross-examination, he has stated that this accused caused assault on his chest region. But, as per the evidence of Doctor, no injury found on the chest region. So, by pointing out this, the learned counsel for the petitioner would submit that there was serious infirmity in the evidence is to who caused grievous injury. Since accused No.2 & 3 were acquitted, the same benefit must be extended to this petitioner also.



10.No doubt, he has given a statement that he was assaulted by the unknown persons before the Doctor. But, in the statement of complaint, he has given clear version. So, this simple contradiction is not sufficient enough to reject the prosecution case entirely. Very serious injury has been caused to P.W.1 as stated above, the intestinal portion was oozing out. When such a murderers attack has been committed, simply because, the accused No.2 & 3 were acquitted from the charges, I am of the considered view that the same benefit cannot be extended to this petitioner.

11.P.W.2 is the wife of P.W.1 and she was not the eye-witness to the occurrence. P.W.3 was not also the eye-witness to the occurrence. He went to the spot only after receiving information. On enquiry, P.W.3 has told that this petitioner along with his friends caused assault with knife. He was admitted in the Kauvery Medical Centre for saving life. In the hospital, he was in Intensive Care Unit for more than 10 days. He was the brother of P.W.1.

12. P.W.4 has stated that when they were walking near the place of occurrence, on hearing the noise, he rushed to the spot. At the time of reaching, all the accused persons ran away and they found the injured



with bleeding injuries. P.W.5 has also stated that some unknown persons alleged to have assaulted P.W.1. P.W.6 was not eye-witnesses to the occurrence. So also P.W.7.

13.From the narration of evidence of those persons, it is seen that P.W.1 has sustained injuries because of the above said attack. Even though, the involvement of the accused No.2 & 3 as noted above has been disbelieved, the evidence against this petitioner is cogent and real one. I find absolutely, no reason to differ from the finding recorded by the Trial Court as confirmed by the Appellate Court.

14.In the result, I find no merit in this revision and accordingly, this Criminal Revision Case is **dismissed**.

15.The learned counsel for the revision petitioner would submit that since the revision petitioner is young age and having 2 children, the sentence imposed upon the petitioner may be reduced.

16.Considering the submission made by the learned counsel for the revision petitioner, the judgment of sentence passed by the 2nd Additional Assistant Sessions Court, Trichirappalli, in S.C.No.159 of 2014 dated 22.06.2015, and confirmed by the 3rd Additional District



WEB COPY



G.ILANGO VAN ,J.

dss

Judge, Tiruchirappalli, in C.A.No.45 of 2015, dated 05.04.2016, is modified. The conviction imposed on the petitioner is sustained. Insofar as the sentence is concerned, it is modified to 3 years of Rigorous Imprisonment.

26.09.2022

Internet :Yes/No
Internet : Yes/No

dss

To

- 1.The 2nd Additional Assistant Sessions Court,
Trichirappalli
- 2.The 3rd Additional District Judge,
Tiruchirappalli.
- 3.The The Inspector of Police,
Gandhi Market Police Station,
Trichy.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.R.C.(MD).No.550 of 2016