



CrL.R.C(MD)No.961 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.11.2022

CORAM:

THE HON'BLE MR.JUSTICE G.ILANGO VAN

CrL.RC(MD)No.961 of 2022

1. Sree Bala Chenthil Kumar
2. Bala Siva Kumar
3. Nagendra Dave

... Petitioners

Vs

The Sub Inspector of Police,
Eraniel Police Station,
Kanyakumari District. Crime No. 306/2015.

... Respondent

Prayer: This Criminal Revision Case filed under Section 397(1) and 401 of Cr.P.C., praying to call for the records and set aside the Judgment of conviction and sentence, dated 30.08.2022 passed in C.A No. 14 of 2019, on the file of the Court of Additional District and Sessions Judge at Padmanabhapuram by confirming the Judgment of conviction and sentence, dated 29.12.2018, passed in C.C.No.143 of 2016, on the file of Principal District Munsif cum Judicial Magistrate, Eraniel.

For Petitioners : Mr. John Jayakumar.J

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



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ORDER

This Criminal Revision Case has been filed by the petitioner to set aside the conviction and sentence, dated 30.08.2022 passed in C.A No. 14 of 2019, by the Additional District and Sessions Judge at Padmanabhapuram by confirming the Judgment of conviction and sentence, dated 29.12.2018, passed in C.C.No.143 of 2016, by the Principal District Munsif cum Judicial Magistrate, Eraniel.

2.The facts in brief is as follows:

The accused were charged under Sections 341, 294(b), 323, 506(i)IPC, before Principal District Munsif cum Judicial Magistrate, Eraniel, in C.C.No.143 of 2016. On the side of prosecution, to prove the guilt of accused, seven witnesses have been examined and 5 documents have been marked. At the conclusion of trial process, the trial Court came to a conclusion that offence under Section 323 IPC alone has been proved against the revision petitioners beyond all reasonable doubts and they were convicted and sentenced to pay a fine of Rs.1,000/- and they were acquitted for the offences under Sections 341, 294(b) and 506(i) IPC. Against the above said conviction and sentence, they preferred appeal in CrI.A.No.14 of 2019, before the Additional District and



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Sessions Judge, Padmanabhapuram and that was dismissed, finding that the injuries suffered by the injured was proved beyond all reasonable doubts and that was also corroborated by medical evidence.

3.Now the grievance of the revision petitioners is that it is a case in counter and counter case was tried in C.C.No.207 of 2014, by the very same Court and before the Lok Adalat, the matter was disposed, since the accused admitted their guilt. They were also charged for the similar offence under Sections 341, 294(b), 323 and 506(i) IPC and they were also imposed fine. The above said Judgment is dated 08.02.2020. According to the revision petitioners, it is a case in counter and proper procedure has not been followed by the Investigating Officer during investigation.

4.It is the settled position of law, that in case in counter, the Investigating Officer must investigate both the matter simultaneously and find out the real aggressor and if he is not in a position to find out the real aggressor, he has to file final report before the concerned Court and the concerned Court must try the matters simultaneously and dispose the same accordingly. Absolutely, no such course has been undertaken by the Investigating Officer, in spite of that he filed separate final report before the concerned Court charging



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both the persons, the trial Court also without taking note of case in counter, it has disposed both the matters, by convicting and sentencing both the groups.

On that sole ground, the Judgment of conviction and sentence, that is imposed by the trial Court is liable to be set aside.

5. Accordingly, this Criminal Revision Case is allowed, by setting aside the conviction and sentence, dated 30.08.2022 passed in C.A No. 14 of 2019, passed by the Additional District and Sessions Judge at Padmanabhapuram. The trial Court shall return the fine amount paid by the revision petitioners if any.

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Index :Yes/No

Internet:Yes/No

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