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Crl.R.C.No.154 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2023

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Crl.R.C.No.154 of 2020

and

Crl.M.P.Nos.1124 & 1125 of 2020

Vijay @ Vijayakumar

... Petitioner

Vs.

State represented by
The Inspector of Police,
Arcot Taluk Police Station,
Arcot, (presently Ranipet District).

... Respondent

Prayer:

Criminal Revision Case is filed under Section 397 & 401 of Cr.P.C., to set aside the conviction and sentence imposed by the learned II Additional District and Sessions Judge, Ranipet in Crl.A.No.94 of 2017 vide judgment dated 31.10.2019 thereby confirming the conviction and modifying the sentence imposed by the learned Assistant Sessions Judge, Ranipet in S.C.No.114 of 2014 vide judgment dated 19.08.2017.

For Petitioner : Mr.M.R.Thangavel

For Respondent : Mr.R.Murthi
Government Advocate (Criminal Side)



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ORDER

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2. The respondent police registered the case against the revision petitioner in Crime No.222 of 2012 originally for the offence under Section 294(b), 324 and 506(ii) IPC. During investigation, the respondent police altered the sections into 294 (b), 324, 307 and 506(ii) IPC and laid a charge sheet before the District and Munsif Court, Arcot. The learned Magistrate has taken the charge sheet on file in P.R.C.No.40 of 2013. After completing the formalities under Section 207 and 209 Cr.P.C., committed the case to the Principal Sessions Judge, Vellore, since the offences are exclusively triable by the Court of Session. The learned Principal District and Sessions Judge has taken the case on file in S.C.No.114 of 2014 and made over the same to the Assistant Sessions Judge, [Subordinate Judge], Ranipet, Vellore



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District. The learned Assistant Sessions Judge after completing the formalities, framed the charges against the appellant for the offence under Sections 294(b), 307 and 506(ii) IPC. After trial, though the accused was acquitted for the offence under Sections 294(b) and 506(ii) IPC, however found guilty for the offence under Section 326 IPC and he was convicted and sentenced to undergo three years rigorous imprisonment and to pay fine of Rs.1,000/- in default to undergo 6 months simple imprisonment for the offence under Section 326 IPC. Aggrieved over the same, the accused has filed the Criminal Appeal in Crl.A.No.94 of 2017 on the file of the Principal District and Sessions Judge, Vellore. The learned Principal District and Sessions Judge has taken the appeal on file in Crl.A.No.94 of 2017 and made over the same to the II Additional District and Sessions Judge, Vellore @ Ranipet. The learned Additional Sessions Judge after hearing the arguments, partly allowed the appeal, however reduced the sentence from three years rigorous imprisonment to six months rigorous imprisonment for the offence under Section 326 IPC. Aggrieved over the same, the accused has filed the present Criminal Revision Petition.



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3. The learned counsel for the Criminal Revision Petitioner submitted that the alleged occurrence said to have taken place in the presence of one Parimalam. Though the defacto complainant questioned the alleged atrocity of the accused with the Parimalam, the said Parimalam did not support the case of the prosecution. He turned hostile and none of the independent witnesses were examined in this case. No eye witness except the defacto complainant had supported the case of the prosecution. P.W.2 is none other than the son of P.W.1/defacto complainant, who is an interested witness. No other independent witnesses supported the case of the prosecution. Further, he submitted that no other eye witnesses have spoken about the alleged occurrence. The trial court failed to appreciate the evidence, however convicted the accused. The appellate court also though reduced the sentence imposed on the petitioner, failed to appreciate the evidence of prosecution that the prosecution failed to prove its case beyond all reasonable doubt and the benefit of doubt should have been extended in favour of the revision petitioner. Hence the Criminal Revision Case may be allowed.



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4. Learned Government Advocate (Criminal Side) appearing for the respondent would submit that the defacto complainant, who is an injured witness sets the law into motion by registering the case. He has spoken about the incident and as to how he sustained injury. He has stated that the revision petitioner is the one who caused injury on him by using knife. The doctor who has given treatment initially was examined as P.W.9, has clearly spoken about the injury sustained by the defacto complainant. From the medical records, it is found that the injury sustained by the defacto complainant is grievous in nature. Though the trial court acquitted the petitioner for the offence under sections 294(b) and 506(ii) IPC, however considering the medical evidence, the revision petitioner was found guilty for the offence under Section 326 IPC. In this case, P.W.1 is the injured witness and P.W.2 is the eye witness. Both of them have clearly spoken about the occurrence. The medical evidence also corroborated the same. Though other witnesses have turned hostile, there is no reason to discard the evidence of the defacto complainant and the doctor's evidence. There is no merit in the revision case and the same is liable to be dismissed.



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5. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the materials available on record.

6. Specific case of the prosecution is that on 25.11.2012 at about 8.10 pm, when P.W.1/defacto complainant was standing in front of his house, the revision petitioner came in an auto and stood near the house of one Parimalam picked up wordy quarrel among themselves and irked over the said Parimalam. When the said Parimalam complained it to the defacto complainant, the defacto complainant advised him not to fight with them. Due to previous enmity, the revision petitioner with an intention to cause death to the defacto complainant, took a knife and caused injuries in his right cheek, forehead and also left side shoulder and scolded him with filthy language and threatened him. Thus, the revision petitioner voluntarily caused grievous injuries to the defacto complainant. Subsequently, the defacto-complainant was admitted in hospital. Based on the intimation given by the hospital authority, the respondent police went to the hospital



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and recorded the statement from the defacto-complainant and registered the case as against the revision petitioner.

7. Though the learned counsel for the petitioner vehemently contended that the intimation is said to have given by the hospital authority to the police was not marked in this case, however, from the evidence of the doctor, P.W.9, it is found that the defacto-complainant /P.W.1 was admitted in the hospital on the very same day just ten minutes soon after the occurrence. The Accident Register also reveals that the defacto-complainant was admitted in the Government Hospital, Arcot. Since the defacto-complainant required further treatment, he was referred to C.M.C Hospital, Vellore and took treatment there for one week. All the medical records clearly show that the injury sustained by the defacto-complainant were grievous in nature. The weapon used by the revision petitioner is the deadly weapon and the he attacked on the vital part of the defacto complainant. In this case, though no other independent witnesses were examined and they were not supported the case of the prosecution, however, injured witness who was examined as P.W.1 and the doctor one who admitted the injured in



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the hospital has clearly stated that at the time of admission, the defacto-complainant was in conscious and therefore evidence of P.W.1 and also evidence of doctor and the medical evidence show that P.W.1 sustained grievous injuries.

8. P.W.2 is eye witness, who is none other than the son of P.W.1, who is relative witness as well as the interested witness. Merely because the witness is relative, the court need not ignore the evidence of the relative witness if the relative witness corroborated the evidence of other eye witnesses. There is no reason to discard the evidence of the relative witness. In this case, P.W.1 is the injured witness who has clearly spoken about the incident and the person who caused injuries on him and also the weapon used by the accused. Soon after the occurrence, victim admitted in the hospital. From the A.R entry , it is found that the known person caused injuries with knife on the victim. P.W.2 who is also none other than the son of the victim has spoken about the incident. Since P.W.2 is the relative of P.W.1, that may not be sole ground to ignore the evidence of P.W.2. Both the Courts below rightly appreciated and re-appreciated the evidence of the



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prosecution witnesses and medical evidence. Further in this case, complaint has been given only in the hospital while P.W.1 was taking treatment in the hospital. Therefore, genesis of the complaint is not doubtful.

9. The scope of the revision is very limited and the revisional court while dealing with the revision has to see as to whether there is any perversity in the appreciation of evidence in the judgment. Therefore, while deciding the revision, the Revisional Court cannot sit in the arm chair of the appellate court and reappreciate the entire materials.

10. Though the trial court not found the accused guilty for the offence under Sections 294(b) and 506(ii) IPC, however found the accused guilty for the offence under Section 326 IPC and convicted and sentenced him to undergo Rigorous Imprisonment for three years and to pay fine of Rs.1000/- in default to undergo simple imprisonment for six months for the offence under Section 326 IPC. Whereas, the appellate court confirmed the conviction and sentence passed by the trial court, however, modified the



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sentence of three years Rigorous Imprisonment to six months Rigorous Imprisonment for the offence under Section 326 IPC. Since the revision petitioner caused grievous injuries to the defacto-complainant by using deadly weapon and also caused grievous injuries on the vital part of the defacto-complainant and also considering the facts and circumstances of this case, this Court does not find any mitigating circumstances to reduce the sentence further.

11. In this case, there is no perversity in the appreciation of evidence and there is no merit in the revision and the same is liable to be dismissed. Accordingly the Revision Case is dismissed. Consequently, connected miscellaneous petitions are closed.

02.01.2023

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Index:yes/No
Internet:yes/No

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To

1. The II Additional District and Sessions Judge,
II Additional District and Sessions Court
Ranipet.
2. The Assistant Sessions Judge,
Assistant Sessions Court,
Ranipet.
3. The Inspector of Police,
Arcot Taluk Police Station,
Arcot, (presently Ranipet District).
4. The Public Prosecutor,
High Court,
Chennai.



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P.VELMURUGAN, J.

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