



Crl.R.C.Nos.195, 196, 198 and of 2020

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.01.2023

PRONOUNCED ON : 03.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

**Crl.R.C.Nos.195, 196, 198 and of 2020 and
Crl.M.P.o.1462 of 2020**

Murthy

...Petitioner/A5 in R.C.195/20

1. Rajendran
2. Rajendran
3. Jayakumar
4. S.Karunan
5. Muniyandi

...Petitioners/A7, A9, A10,
A11 and A12 in R.C.196/20

1. Jaya @ Jayashankar
2. Soda @ Elavarassan
3. Raja
4. Arivalagan
5. Satyaseelan
6. Quarter @ Gobinath

...Petitioners/A1 to A4, A6 and
A8 in R.C.198/20

Vs.



Crl.R.C.Nos.195, 196, 198 and of 2020

WEB COPY

State represented by
The Inspector of Police
Kumarachi Police Station,
Cuddalore District
(Crime No.238/2003)

...Respondent in all the RCs

Criminal Revision Cases filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the conviction and sentence imposed in C.A.No.67, 65, 66 of 2019 dated 07.11.2019 by the learned II Additional District Sessions Judge, Chidambaram, confirming the conviction and sentence imposed in S.C.No.107 of 2007 dated 29.03.2019 by the learned Assistant Sessions Judge, Chidambaram.

For Petitioners : Mr.R.Sankara Subbu in all the RCs

Respondent : Mr.R.Murthi Govt. Advocate (Crl.Side)
in all the RCs



Crl.R.C.Nos.195, 196, 198 and of 2020

WEB COPY

COMMON ORDER

These criminal revisions are filed aggrieved against the conviction and sentence imposed against the petitioners in S.C.No.107 of 2007 dated 29.03.2019 by the learned Assistant Sessions Judge, Chidambaram, which was confirmed by the learned II Additional District and Sessions Judge, Chidamabaram, in C.A.Nos.67, 65, 66 of 2019, dated 07.11.2019.

2 The respondent police registered a case against the petitioners along with one absconding accused in Crime No.238 of 2003 and after completing investigation filed a charge sheet for the offence under Sections 451, 395 r/w 397 IPC, and the case was taken on file in S.C.No.107 of 2007 by the learned Assistant Sessions Judge, Chidambaram. The trial Court, after hearing both the parties, by judgment dated 29.03.2019, convicted all the 12 accused and sentenced A1 to A12 to undergo rigorous imprisonment for a period of three years for the offence under Section 451 IPC, A1 to A3 to undergo rigorous imprisonment for a period of seven years to pay fine of



Crl.R.C.Nos.195, 196, 198 and of 2020

Rs.2000/- each, in default, to undergo simple imprisonment for a further period of three months for the offence under Section 395 r/w Section 397 IPC and A4 to A12 to undergo rigorous imprisonment for a period of five years and to pay fine of Rs.1000/- each, in default, to undergo simple imprisonment for a further period of three months for the offence under Section 395 IPC and ordered the sentence awarded in this case and also in S.C.No.125 of 2007 to run concurrently, since some of the accused in this case were also convicted in S.C.No.125 of 2007 by judgment dated 29.03.2019.

3 Being not satisfied with the judgment of conviction and sentence, all the accused have preferred criminal appeals in C.A.No.67, 65 and 66 of 2019 and the learned II Additional Sessions Judge, Chidambaram, after hearing both the parties, by judgment dated 07.11.2019, dismissed all the appeals by confirming the conviction and sentence imposed by the trial Court.



Crl.R.C.Nos.195, 196, 198 and of 2020

4 Aggrieved over the concurrent findings of both the Courts below, all the accused viz. A1 to A12 have preferred these criminal revisions before this Court.

5 The learned counsel for the petitioners would submit that the entire case is motivated in order to wreck vengeance against the petitioners, who are not committed any such offence as alleged by the prosecution. P.W.1 Annakili misusing her position as Panchayat President, foisted false case against the petitioners. The defacto complainant family members killed one Balamuthu father of Jayakumar and some of the accused are the prosecution witnesses against one Vaidiyanathan, who is husband of Annakili and who planted bomb in front of the Court at Kattumannarkoil.

5.1 The learned counsel appearing for the petitioner would further contend that one Jaya contested the local body election against P.W.3 and hence there is strong motive to foist false case against the petitioners, which the trial Court has failed to appreciate. Further P.Ws.1 to 3 are interested witnesses and no independent witness has supported the case of the



CrI.R.C.Nos.195, 196, 198 and of 2020

prosecution. There is delay in filing the complaint and there is no reason offered by the prosecution for the same, which is fatal to the case of the prosecution.

5.2 It is alleged by the prosecution that the accused at knife point robbed the jewels of the defacto complainant's family members, but it is to be noted that no one has sustained any injury. Further recovery witness has not supported the case of the prosecution and hence recovery has not been proved by the prosecution and hence the offence under Section 395 r/w 397 has not been proved and conviction cannot be recorded against the petitioners, who are no way connected with the alleged offence. The learned counsel in support of his contentions, has relied on the judgments of the Hon'ble Supreme Court in the case of *Jai Prakash Tiwari vs. State of Madhya Pradesh reported in 2022 SCC OnLine SC 966* and in the case of *Chotkau vs. State of Uttar Pradesh in Criminal Appeal No.361362 of 2018*.

5.3 The trial Court, without considering the defence and the strong



Crl.R.C.Nos.195, 196, 198 and of 2020

motive, has erroneously convicted the petitioners and the lower appellate Court has also failed to re-appreciate the evidence and simply endorsed the views of the trial Court and confirmed the conviction, which warrants interference of this Court.

6 The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioners trespassed into the house of P.Ws.1 to 3 and robbed the jewels at knife point. P.Ws. 1 to 3 have categorically stated about the robbery committed by the accused, which are corroborated with each other and they also identified the accused and the robbed jewels. Even though the independent witnesses turned hostile, prosecution has proved its case through evidence of P.Ws.1 to 3, who are the eye witnesses and their evidences are cogent and corroborated with each other. The accused apart from the jewels, has also taken away some of the household articles. P.W.3 narrated the entire incident and the jewels and the household articles were also recovered from the petitioners and the same were identified by P.Ws.1 to 3, who are the eye witnesses. Even though the accused have took a defence of previous enmity the same cannot be the sole



Crl.R.C.Nos.195, 196, 198 and of 2020

ground to disbelieve the evidence of the prosecution witnesses. The trial Court and the lower appellate Court have also rightly appreciated and re-appreciated the entire evidence and recorded conviction against the petitioners, which does not call for any interference.

7 Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.Side) appearing for the respondent police and perused the materials available on record.

8 It is the specific case of the prosecution that the accused have trespassed into the house of P.Ws.1 to 3 and robbed the jewels from P.Ws.1 to 3 and also taken away the household articles at knife point. P.Ws.1 to 3, who are the eye witnesses and also the victims have clearly narrated the entire incident and identified the jewels and articles, recovered from the petitioners/accused.

9 There is specific overt act attributed against each of the petitioners/A1 to A12. The trial Court appreciated the entire evidence and



CrI.R.C.Nos.195, 196, 198 and of 2020

convicted the petitioners. The lower appellate Court also re-appreciated the evidence and confirmed the conviction.

10 Scope of revision is very limited and the Revisional Court cannot sit in the arm chair of the appellate Court. Unless the Court finds that there is perversity in appreciation of evidence by the Courts below, normally the revisional Court will not interfere with the findings of the Courts below.

11 The main defence is that there is delay in lodging the complaint and previous enmity. A careful perusal of the evidence shows that there is only three hours delay in filing the complaint, unless it is shown there is deliberation or embellishment, mere delay is not fatal to the case of the prosecution. Regarding the defence of previous enmity and murder, from the evidence of P.Ws.1 to 3 it is clear that the petitioners trespassed into the house of P.Ws.1 to 3 and robbed jewels and taken away some of the household articles. Mere motive is not enough to disbelieve the evidence of the prosecution witnesses, when the jewels and articles were recovered from



Crl.R.C.Nos.195, 196, 198 and of 2020

the petitioners. Further, both parties are known to each other and they are resident of the same village. Therefore the contention of the learned counsel is not acceptable.

12 The other defence is that except P.Ws.1 to 3 other independent witnesses have turned hostile and have not supported the case of the prosecution. P.Ws.1 to 3 are the victims and eye witnesses to the occurrence, who have clearly deposed and narrated the entire events, which attributes specific overt act against each of the petitioners and their evidences are corroborated with each other, which is cogent consistent and also inspires confidence of this Court. Both the Courts below have rightly appreciated the entire evidence and recorded conviction against all the petitioners, in which this Court does not find any perversity, to take a different view. There is no merit in the revision.

13 Further the citations referred to by the learned counsel appearing for the petitioners are not applicable to the present case on hand, since in both the cases defence witnesses were examined and case of the



Crl.R.C.Nos.195, 196, 198 and of 2020

prosecution was disbelieved, whereas, in this case, no defence witness was examined and evidence of eye witnesses corroborated with each other and no reason to disbelieve the evidence of P.Ws.1 to 3 and their evidence inspires confidence of the Courts.

14 For the foregoing reasons, these criminal revisions are dismissed. Consequently connected miscellaneous petition is also closed. The trial Court is directed to secure the accused to undergo remaining period of sentence, if any.

03.03.2023
(¹/₂)

Index : Yes/No
cgi

To

1. The I Additional District Sessions Judge, Chidambaram.
2. The Assistant Sessions Judge, Chidambaram.
3. The Inspector of Police, Kumarachi Police Station,
Cuddalore District
4. The Public Prosecutor, High Court of Madras.

11/12



WEB COPY



Crl.R.C.Nos.195, 196, 198 and of 2020

P.VELMURUGAN, J.,

cgi

**Pre-Delivery Order in
Crl.R.C.Nos.195, 196, 198 and of 2020 and
Crl.M.P.o.1462 of 2020**

03.03.2023