



Crl.R.C.No.199 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.No.199 of 2020

1. Jaya @ Kaikari
2. Raja
3. Arivalagan
4. Soda @ Elavarasan
5. Isaiaarasu
6. Satyaseelan

...Petitioners

Vs.

State represented by
The Inspector of Police
Kumarachi Police Station,
Cuddalore District

...Respondent

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.68 of 2019 dated 07.11.2019 by the learned II Additional District and Sessions Judge, Chidamabaram, confirming the conviction and sentence



Crl.R.C.No.199 of 2020

imposed in S.C.No.125 of 2007 dated 29.03.2019 by the learned Assistant Sessions Judge, Chidambaram.

For Petitioners : Mr.R.Sankara Subbu

Respondent : Mr.R.Murthi
Government Advocate (Crl.Side)

ORDER

The criminal revision is filed aggrieved against the conviction and sentence imposed against the petitioners in S.C.No.125 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.No.68 of 2019, dated 07.11.2019.

2 The respondent police registered a case against the petitioners along with six others in Crime No.85 of 2003 and after completing investigation filed a charge sheet as follows:

<i>Sl.No</i>	<i>Name and Rank of the Accused</i>	<i>Charges</i>
1.	Jaya @ Kaikari - A1	148, 324 (2 counts) and 307 (2 counts) IPC



CrI.R.C.No.199 of 2020

Sl.No	Name and Rank of the Accused	Charges
2.	Raja - A2	148, 324 (4 counts) and 307 IPC
3.	Arivazhagan – A3	147, 148, 324 (3 counts) and 323 IPC
4.	Soda @ Elavarasan - A4	148, 324 (5 counts) IPC
5.	Isaiarasu - A5	147, 148, 323 and 324 (3 counts) IPC
6.	Pughazenthi - A6	148 and 324 (5 counts) IPC
7.	Sathiyaseelan - A7	147 and 323 IPC
8.	Balamuthu - A8	147 and 323 IPC
9.	Gopinath @ Quarter - A9	147 and 323 (5 counts) IPC
10.	Rajendran - A10	147, 325 and 323 (2 counts) IPC
11.	Moorthy - A11	148 and 324 (2 counts) IPC
12.	Tamilvanan - A12	147 and 323 IPC

3 The learned District Munsif-cum-Judicial Magistrate, Kattumannarkoil, has taken the case on file in PRC.No.32 of 2005 and since A12 absconded, the case was split up against him and since the offences are triable by the Court of Session, the case was committed to the learned Principal District and Sessions Judge, Cuddalore, who has taken the case on file in S.C.No.125 of 2007 and made over the same to the learned Assistant Sessions Judge, Chidambaram. Since A8 died, charges against him got abated. The learned Assistant Sessions Judge, Chidambaram, after hearing



CrI.R.C.No.199 of 2020

both the parties, assigned ranking and framed charges as follows:

Sl.No	Name and Rank of the Accused	Charges
1.	Jaya @ Kaikari - A1	148, 324 (2 counts) and 307 (2 counts) IPC
2.	Raja - A2	148, 324 (4 counts) and 307 IPC
3.	Arivazhagan – A3	148, 324 (3 counts) and 307 r/w 149 IPC
4.	Soda @ Elavarasan - A4	148, 324 (5 counts) and 307 r/w 149 IPC
5.	Isaiarasu - A5	147, 323, 324 (3 counts) and 307 r/w 149 IPC
6.	Pughazenthi - A6	148 and 324 (5 counts) and 307 r/w 149 IPC. After framing charges A6 died and charges against him stood abated.
7.	Sathiyaseelan - A7	147 and 323 and 307 r/w 149 IPC
8.	Gopinath @ Quarter - A8	147 and 323 and 307 r/w 149 IPC
9.	Rajendran - A9	147 and 323, 325 (2 counts) and 307 r/w 149 IPC
10.	Moorthy	148, 324 (2 counts) and 307 r/w 149 IPC.

4 On the side of the prosecution, 32 witnesses were examined as P.Ws.1 to 32, Ex.P1 to Ex.P23 were marked besides four material objects were exhibited as M.O.1 to M.O.4. On the side of the defence no oral and documentary evidence was let in. The learned Assistant Sessions Judge, Chidambaram, after hearing both the parties, by judgment dated 29.03.2019,



CrI.R.C.No.199 of 2020

convicted all the accused and sentenced as follows:

Sl. No.	Name and Rank of the Accused	Conviction	Sentence
1.	Jaya @ Kaikari - A1	148, 324 (2 counts) and 307 (2 counts) IPC	RI for 2 years for 148 RI for 7 years for each count and to pay fine of Rs.1000/- for each count i/d SI for 3 months for 307 RI for 2 years for each count
2.	Raja - A2	148 and 307 and 307 r/w 149 IPC	RI for 2 years for 148 RI for 7 years and to pay fine of Rs.1000/-, i/d SI for 3 months for 307 RI for 7 years and to pay fine of Rs.1000/-, i/d SI for 3 months for 307 r/w 149
3.	Arivazhagan – A3	148, 324 (3 counts) and 307 r/w 149 IPC (2 counts)	RI for 2 years for 148 RI for 2 years for each count for 324 RI for 7 years for each count and to pay fine of Rs.1000/-, for each count i/d SI for 3 months for each default for 307 r/w 149
4.	Soda @ Elavarasan - A4	148, 324 (4 counts) and 307 r/w 149 (2 counts) IPC	RI for 2 years for 148 RI for 2 years for each count for 324 RI for 7 years for each count and to pay fine of Rs.1000/-, for each count i/d SI for 3 months for each default for 307 r/w 149
5.	Isaiarasu - A5	147, 323, 324 (2 counts) and 307 r/w 149 (2 counts) IPC	RI for 1 year for 147 RI for 2 years for each count for 324



CrI.R.C.No.199 of 2020

Sl. No.	Name and Rank of the Accused	Conviction	Sentence
			RI for 7 years for each count and to pay fine of Rs.1000/-, for each count i/d SI for 3 months for each default for 307 r/w 149
6.	Pughazenthi - A6	148 and 324 (5 counts) and 307 r/w 149 IPC. After framing charges A6 died and charges against him stood abated.	Since A6 died, charges against him stood abated and hence no sentence was awarded.
7.	Sathiyaseelan - A7	147 and 307 r/w 149 (2 counts) IPC	RI for 1 year for 147 RI for 7 years for each count and to pay fine of Rs.1000/-, for each count i/d SI for 3 months for each default for 307 r/w 149
8.	Gopinath @ Quarter - A8	147 and 323 and 307 r/w 149 IPC	Not found guilty and hence acquitted
9.	Rajendran - A9	147 and 323, 325 (2 counts) and 307 r/w 149 IPC	Not found guilty and hence acquitted
10.	Moorthy	148, 324 (2 counts) and 307 r/w 149 IPC.	Not found guilty and hence acquitted

The learned trial Judge ordered all the sentence to run concurrently.

5 Being not satisfied with the judgment of conviction and sentence, all the convicts have preferred criminal appeal in C.A.No.66 of 2019 and the learned II Additional Sessions Judge, Chidambaram, after hearing both the parties, by judgment dated 07.11.2019, dismissed the



Crl.R.C.No.199 of 2020

appeal by confirming the conviction and sentence imposed by the trial Court.

6 Aggrieved over the concurrent findings of both the Courts below, all the convicts have preferred the criminal revision before this Court.

7 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.9 Annakili, misusing her position as Panchayat President, foisted false case against the petitioners, since some of the accused are the witnesses against one Vaidiyanathan, who is husband of P.W.9 Annakili and who planted bomb in front of Kattumannarkoil Court. Hence there is strong motive to foist false case against the petitioners, which the trial Court has failed to appreciate.



Crl.R.C.No.199 of 2020

WEB COPY

7.1 The learned counsel appearing for the petitioners would further contend that P.Ws.1 to 3, 9 are interested witnesses and no independent witness has supported the case of the 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.

7.2 The recovery witnesses and eye witnesses cited by the prosecution have also turned hostile and have not supported the case of the prosecution. Further the injuries said to have sustained by the injured witnesses are only simple in nature and hence offence under Section 307 would not attract.

7.3 The trial Court, without considering the defence and the strong 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.



Crl.R.C.No.199 of 2020

WEB COPY 8

The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioners assembled unlawfully with deadly weapons and due to previous enmity had attacked the witnesses. The injured witnesses have categorically stated about the offence committed by each of the accused, which are corroborated with each other and they also identified the accused. Even though the independent witnesses turned hostile, prosecution has proved its case through evidence of the injured witnesses, who are the eye witnesses and their evidences are cogent and corroborated with each other. Even though the accused have took a defence of previous enmity, the same cannot be the sole 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.



Crl.R.C.No.199 of 2020

WEB COPY 9

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.

10 It is the specific case of the prosecution that the accused have assembled unlawfully with deadly weapons and inviting wordy quarrel with the defacto complainant, attacked the witnesses. The victims have clearly narrated the entire incident and their evidence corroborated with each other.

11 There is specific overt act attributed against each of the petitioners. The trial Court appreciated the entire evidence and convicted the petitioners. The lower appellate Court also re-appreciated the evidence and confirmed the conviction.

12 Scope of revision is very limited and the Revisional Court cannot sit in the arm chair of the appellate Court. Unless the Court finds



Crl.R.C.No.199 of 2020

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.

13 Regarding the defence of previous enmity, from the evidence of injured witnesses, it is clear that A1, due to previous enmity, invited wordy quarrel with the defacto complainant and the petitioners assembled unlawfully with deadly weapons and attacked the witnesses and caused injuries. Mere motive is not enough to disbelieve the evidence of the prosecution witnesses, when the injured witnesses have clearly deposed about the occurrence, which corroborated with each other. Therefore the contention of the learned counsel is not acceptable. Further the Doctor, P.W.18, who treated the injured witnesses, has clearly spoken about the injury sustained by the witnesses, which corroborated with the evidence of the injured witnesses. With regard to the discrepancies pointed out by the learned counsel appearing for the petitioners, the contradictions and discrepancies are not material contradictions, which will go to the root of the case of the prosecution.



Crl.R.C.No.199 of 2020

14 The other defence is that independent witnesses and recovery witnesses and also the eye witnesses have turned hostile and have not supported the case of the prosecution. A careful perusal of the evidence of prosecution witnesses, reveal that there are specific overt acts attributed against each of the petitioners and their evidence is corroborated with each other, which is cogent consistent and also inspires confidence of this Court. Further, the evidence of the Doctor P.W.18, who treated the injured witnesses also corroborated with the evidence of the injured witnesses. 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.

15 For the foregoing reasons, the criminal revision stands dismissed. The trial Court is directed to secure the accused to undergo remaining period of sentence, if any.

03.03.2023
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Index : Yes/No
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Crl.R.C.No.199 of 2020

WEB COPY

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.



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Crl.R.C.No.199 of 2020

P.VELMURUGAN, J.,

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**Pre-Delivery Order in
Crl.R.C.No.199 of 2020**

03.03.2023