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Crl.R.C.No.593 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2023

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.593 of 2020

Amutha

... Petitioner

Versus

State rep.by
The Inspector of Police,
Rasipuram Police Station,
Namakkal District,
Crime No.741 of 2012.

... Respondent

Criminal Revision Case filed under Section 397 r/w 401 Criminal Procedure Code, to set aside judgment dated 15.6.2020 passed in C.A.No.76 of 2019 on the file of the Principal Sessions Judge, Namakkal confirming the judgment dated 01.11.2019 passed in S.C.No.15 of 2013 on the file of the Additional Assistant Sessions Judge, Namakkal.

For Petitioner : Mr.G.Anbuchezhian
For Respondent : Mr.R.Murthi
Government Advocate (Crl.Side)

ORDER

The Criminal Revision Case has been filed against the judgment dated 15.6.2020 passed in C.A.No.76 of 2019 by the learned Principal Sessions Judge, Namakkal, confirming the judgment dated 01.11.2019 passed in



S.C.No.15 of 2013 by the learned Additional Assistant Sessions Judge,
Namakkal.

2. The case of the prosecution is that on 20.08.2012, the petitioner/accused who was known to the victim came to the house of the victim on the pretext of watching television and after gaining entry thus, she thrown chilli powder on the eyes of the victim and the victim with a stick and koduval, caused injuries to her, forcibly snatched 6 ½ sovereigns of gold chain worth about Rs.1,30,000/- and left the house bolting the door from outside; after the attack, the victim was in a state of shock and when she regained herself, she made a hue and cry and the front door was opened by her neighbours.

3. On these allegations, the respondent/Police registered a case in Crime No.741 of 2012 against the petitioner/accused for the offences punishable under Sections 451, 394 r/w 397 IPC. After investigation, the respondent/Police filed a charge sheet before the learned Judicial Magistrate, Rasipuram and the same was taken on file in P.R.C.No.29 of 2012. After completing the formalities under Section 207 Cr.P.C., the learned Magistrate



committed the case to the learned Principal Sessions Judge, Namakkal, since one of the offences is exclusively triable by the Court of Session. The learned Principal Sessions Judge, Namakkal taken the case on file in S.C.No.15 of 2013 and made over the case to the learned Additional Assistant Sessions Judge, Rasipuram. The learned Sessions Judge, framed charges against the accused for the offences under Sections 451 and 394 r/w 397 IPC.

4. In order to prove its case before the trial Court, on the side of the prosecution, as many as 12 witnesses were examined as P.W.1 to P.W.12 and 9 documents were marked as Exs.P1 to P9 and seven material objects were marked as M.O.1 to M.O.7.

5. After examining the prosecution witnesses, the incriminating circumstances culled out from the evidence of the prosecution witnesses were put before the accused and she was questioned under Section 313 Cr.P.C., wherein she denied all the incriminating circumstances as false and pleaded not guilty. On the side of the defence, no oral evidence was adduced and no documentary evidence was produced.



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6. The trial Court, after hearing the arguments advanced on either side and also considering the materials available on record, found that the accused was found guilty for the aforesaid offences and convicted and sentenced as follows:

(i) the accused was convicted for the offence under Section 394 r/w 397 IPC and sentenced to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for a period of six months;

(ii) the accused was convicted for the offence under Section 451 IPC and sentenced to undergo simple imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of two months;

(iii) the trial Court ordered that the period of detention already undergone by the accused was directed to be set off under Section 428 Cr.P.C.

7. Challenging the said conviction and sentence, the petitioner/accused preferred an appeal in Crl.A.No.76 of 2019 before the learned Principal Sessions Judge, Namakkal. The lower Appellate Court, as a final Court of fact finding re-appreciated the entire materials and dismissed the appeal and



confirmed the conviction and sentence passed by the trial Court. Aggrieved by the same, the petitioner has filed the present revision before this Court.

8. Since the revision has been filed in the year 2020 and the same is pending for more than two years, despite sufficient opportunity was given to the petitioner to argue the matter, the learned counsel for the petitioner is not yet ready to argue the matter. Therefore, this Court is inclined to dispose of the revision on merits.

9. Admittedly, the respondent/Police registered a case against the petitioner/accused for the offences punishable under Sections 451, 394 r/w 397 IPC and after trial, the trial Court convicted and sentenced for the charged offences, which was confirmed by the lower Appellate Court.

10. In order to prove the case of the prosecution, during trial, on the side of the prosecution, totally 12 witnesses were examined, out of which, the victim/*de-facto* complainant was examined as P.W.1. The Doctor, who treated P.W.1 for her injuries was examined as P.W.9. The Accident Register was marked as Ex.P4. The retired Village Administrative Officer of Muthukalipatty Village, who is the recovery witness to the confession statement was examined as P.W.10.



11. A reading of the evidence of P.W.1, who is the injured witness has stated that on the date of occurrence i.e. on 20.08.2012 at about 3.00 p.m, the petitioner/accused, who was known to her, came to her house saying that the television set in her house was not working and picked up a conversation; once went inside the house, all of a sudden, the accused threw chilly powder on her (P.W.1's) face and brutally attacked her with a stick and koduval, caused injuries to her and forcibly snatched the thalikodi and brutally attacked her with a wooden log and koduval. After the attack, the victim was in a state of shock and when she regained herself, she made a hue and cry and the front door was opened by her neighbours P.W.5 and P.W.6. Thereafter, they intimate the same to the victim's son/P.W.3. Then, P.W.1 was taken to hospital by her son/P.W.3 and her daughter-in-law/ P.W.4. Further, P.W.1 clearly mentioned the name of the accused, who caused injuries to her.

12. P.W.9/Doctor who examined the victim has clearly stated that on 20.08.2012 at about 6.30 p.m P.W.1 was brought to the hospital for treatment and on enquiry she has stated that she was attacked by a known person with a wooden stick and koduval and also the accused threw chilli powder on her face. On clinical examination, she found injuries on the victim, which are simple in nature. The Doctor also made entries in the Accident Register, which



was marked as Ex.P4.

13. P.W.10 who is the retired Village Administrative Officer of Muthukalipatty Village has clearly deposed that in his presence, the accused had voluntarily confessed to the Inspector of Police that she had hidden the thalikodi chain of P.W.1 in the house of her mother and also stated that she had concealed the blood stained saree and jacket in the bureau, which was kept in her house. Based on the confession statement, the investigating officer had seized the thalikodi chain through seizure mahazar, which was marked as Ex.P7.

14. The investigating officer was examined as P.W.12 and they have recovered the bloodstained wooden stick (M.O.2), bloodstained pillow (M.O.3), bloodstained knife (M.O.4) and chilli powder (M.O.5) from the place of occurrence.

15. On a combined reading of the evidence of P.W.1, P.W.9 and P.W.10, Ex.P4 and material objects, this Court finds that the prosecution has proved its case beyond reasonable doubt. Further, the injured witness herself clearly stated that the accused, one who entered into her house and caused injuries to her and robbed her thalikodi chain. Therefore, the trial Court rightly



appreciated the entire evidence and convicted and sentenced the petitioner.

The lower appellate Court as a final Court of fact finding also re-appreciated the entire evidence and confirmed the judgment of the trial Court.

16. The scope of revision is very limited. The Trial Court already appreciated the entire evidence and convicted and sentenced the petitioner, which was confirmed by the lower Appellate Court and while exercising the revisional jurisdiction, this Court cannot sit in the arm chair of the Appellate Court and re-appreciate the evidence. However, this Court has to see whether there is any perversity or infirmity in the judgments of the Courts below.

17. On a perusal of the entire materials and the judgments of the both the Courts below, this Court does not find any perversity in the judgments of both the Courts below and there is no merit in the revision and the same is liable to be dismissed.

18. Hence, this Criminal Revision Case is dismissed and the judgment of both the Courts below are confirmed. Since the petitioner is on bail, the trial Court is directed to take steps to secure the custody of the accused to undergo the remaining period of sentence, if any, and the same shall be set-off under Section 428 Cr.P.C.



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Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation Case : Yes/No
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To

- 1.The Principal Sessions Judge,
Namakkal.
- 2.The Additional Assistant Sessions Judge,
Namakkal.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Inspector of Police,
Rasipuram Police Station,
Namakkal District.



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P.VELMURUGAN, J.

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