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Crl.R.C.No.1237 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2023

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1237 of 2020

Anja Puli

... Petitioner

Versus

The Sub Inspector of Police (Crime),
B-3 St.George Police Station,
Chennai – 600 009,
Crime No.84 of 2012.

... Respondent

Criminal Revision Case filed under Section 397 and 401 Criminal Procedure Code, to set aside judgment dated 12.02.2020 in C.A.No.240 of 2015 passed by the learned IV Additional Sessions Judge, Chennai confirming the sentence and conviction against the petitioner in C.C.No.2738 of 2013 passed by the learned VII Metropolitan Magistrate Court, George Town, Chennai and allow the above Criminal Revision Case.

For Petitioner : No appearance

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



ORDER

The Criminal Revision Case has been filed against the judgment dated 12.02.2020 passed in C.A.No.240 of 2015 by the learned IV Additional Sessions Judge, Chennai confirming the conviction and sentence against the petitioner in C.C.No.2738 of 2013 passed by the learned VII Metropolitan Magistrate Court, George Town, Chennai.

2. The case of the prosecution is that on 01.09.2012, P.W.1/Sekar went to the house of the accused and demanded him to return his gold jewels viz., one sovereign of chain and 3/4th sovereign of ring. At that time, the petitioner/accused had refused to return the same and assaulted P.W.1 and his children with a wooden log, due to which, he sustained head injury and he was admitted in the Rajiv Gandhi Government Hospital at about 5.00 p.m on the same day itself and a case was registered against the petitioner.

3. On the complaint given by the *de-facto* complainant, the respondent/Police registered a case in Crime No.84 of 2012 for the offences under Sections 341, 323, 326 and 506(ii) IPC against the petitioner. After investigation, the respondent/Police filed a charge sheet before the learned VII



Metropolitan Magistrate, George Town, Chennai and the same was taken on file in C.C.No.2738 of 2013.

4. In order to prove its case before the trial Court, on the side of the prosecution, as many as 8 witnesses were examined as P.W.1 to P.W.8 and 11 documents were marked as Exs.P1 to P11 and one material object was marked as M.O.1, besides the Court documents were marked as C1 to C4. On the side of the defence one document was marked as Ex.D1 and no oral evidence was adduced.

5. The trial Court, after hearing the arguments advanced on either side and also considering the materials available on record acquitted the petitioner for the offence under Sections 341, 323 and 506(ii) IPC. However, the accused was convicted for the offence under Section 326 IPC and sentenced him to undergo simple imprisonment for a period of one year and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for a period of one month and also ordered to pay a sum of Rs.4,000/- as compensation to the victim/P.W.1.



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6. Challenging the said conviction and sentence, the petitioner preferred an appeal in Crl.A.No.240 of 2015 before the learned IV Additional Sessions Judge, Chennai. The 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.

7. According to the petitioner, P.W.1/*de-facto* complainant is none other than the brother of the petitioner, due to family dispute a wordy quarrel arose between the petitioner and the injured witness (P.W.1) and a false case has been foisted against the petitioner. P.W.2 and P.W.3 are the wife and daughter of P.W.1. There are material contradictions between the evidence of P.W.1 to P.W.3 in giving gold ornaments to the petitioner/accused. Further, all the eye witnesses are interested witnesses and none of the independent witnesses were examined to prove the case of the prosecution. The independent witnesses namely P.W.4 for observation mahazar and P.W.5 for arrest and recovery from the house of the petitioner had not supported the case of the prosecution. Though the investigating officer stated that the occurrence took



place in the public view, the witnesses presented in the scene of occurrence namely Muniyamma, Kalyani, Arayi were not examined as witnesses. Due to wreak vengeance, the petitioner has been falsely implicated in this case. Further, the trial Court without considering the oral and documentary evidence, convicted and sentenced the petitioner for the offence under Section 326 IPC and the same was confirmed by the lower appellate Court, which warrants interference of this Court.

8. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that P.W.1 is the injured witness and he is none other than the brother of the petitioner. On the date of occurrence, the injured witness went to the house of the accused and demanded the accused to return his gold jewels. The accused refused to return the same and also assaulted the injured with a wooden log on his head, due to which, the injured sustained head injury. P.Ws.2 and 3 are the eye witnesses to the occurrence and they have clearly narrated the said incident. The Doctor, who made entries in the Accidence Register Ex.P4 was examined as P.W.6 and the Doctor who gave treatment and issued Wound Certificate/Ex.P5 to the injured has stated that



P.W.1's skull was fractured, blood clot in the brain was removed and he was admitted in the hospital as inpatient from 15.09.2012 to 22.09.2020. From the evidence of Pws.1 to 3, 6 and 7 and Ex.P4 and Ex.P5 the prosecution proved that the petitioner has committed the offence under Section 326 IPC. Both the Courts below have rightly appreciated the entire evidence and convicted and sentenced the petitioner for the charged offence. There is no merit in the revision and the same is liable to be dismissed.

9. Heard the learned Government Advocate (Crl.Side) appearing for the respondent and perused the materials available on record.

10. There is no representation for the revision petitioner.

11. Admittedly, the revision petitioner/accused is none other than the brother of the injured witness. The injured witness himself was examined as P.W.1 and he has deposed that the accused borrowed a gold chain from him, but the accused did not return back the same despite several demands. When he asked to return the gold jewel, the accused took a wooden log and assaulted him on his head, due to which, he sustained head injury and admitted in the hospital as inpatient. Thus, he preferred a complaint/Ex.P1.



The evidence of P.W.1 is corroborated with the evidence of P.W.2 and P.W.3, who are the eye witnesses to the said occurrence.

12. P.W.6/Doctor, who made entries in the Accidence Register/Ex.P4 has stated that on 01.09.2012 at about 6.00 p.m P.W.1 was brought to the hospital by his daughter-in-law and on enquiry, she has stated that P.W.1 was assaulted by a known person and P.W.1 found with grievous injuries. P.W.7/Doctor who treated P.W.1 has stated that on medical examination he found that P.W.1's skull was fractured, blood clot in the brain and the same was removed and he has issued Ex.P5/Wound Certificate. The petitioner is a known person to the injured, therefore, identification parade is not in dispute. The injured witness/P.W.1 has clearly narrated the entire incident and his evidence is corroborated with the medical evidence.

13. Considering the facts and circumstances, the trial Court has rightly appreciated the entire evidence and convicted and sentenced the petitioner for the offence under Section 326 IPC and acquitted him from the other offences. The appellate Court as a final Court of fact finding also re-appreciated the entire evidence and confirmed the order of the trial Court.



14. The scope of revision is very limited. The Trial Court and the Lower Appellate Court had already appreciated and re-appreciated the entire evidence and also given findings 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.

15. Taking into consideration the evidence of P.W.1/injured witness and whose evidence was corroborated with the evidence of P.W.2, P.W.3, P.W.6 and P.W.7 and Ex.P4 and Ex.P5, this Court does not find any substantive reasons or any perversity in the appreciation of evidence, illegality or infirmity in the judgment of the both the Courts below and there is no merit in the revision and the same is liable to be dismissed.

16. In view of the above, this Criminal Revision Case is dismissed and judgment dated 12.02.2020 passed in C.A.No.240 of 2015 by the learned IV Additional Sessions Judge, Chennai confirming the sentence and conviction against the petitioner in C.C.No.2738 of 2013 passed by the learned VII



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Metropolitan Magistrate Court, George Town, Chennai is confirmed. 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 sentences imposed on the accused shall be set off under Section 428 Cr.P.C.

12.01.2023

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

- 1.The IV Additional Sessions Judge,
Chennai.
- 2.The VII Metropolitan Magistrate Court,
George Town, Chennai.
- 3.The Sub Inspector of Police (Crime),
B-3 St.George Police Station,
Chennai – 600 009.
- 4.The Public Prosecutor,
High Court, Madras.
- 5.The Section Officer,
Criminal Section,
High Court, Madras.



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P.VELMURUGAN, J.

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