



Crl.R.C.No.657 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.02.2023

PRONOUNCED ON : 02.03.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

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1. Samikannu

2. Vijay

3. Mahendran

... Petitioners

Vs.

State rep. by its
The Inspector of Police,
Dharapuram Police Station,
Tiruppur District,
(Crime No.569 of 2017)

... Respondent

PRAYER: Criminal Appeal filed under Section 397 r/w. 401 of Cr.P.C. to set aside the judgment dated 03.07.2021 in Crl.A.No.91 of 209 on the file of the Principal Sessions Judge, Tiruppur confirming the conviction and sentence in the judgment dated 28.08.2019 made in S.C.No.33 of 2018 on the file of Assistant Sessions Court, Dharapuram.

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For petitioners : Mr. K. Srinivasan,
Senior counsel
for M.Marudhachalam

For Respondent : Mr. V.Meganathan,
Gov. Advocate (crl.side)

ORDER

Challenging the conviction and sentenced passed by the Assistant Sessions Judge, Assistant Sessions Court, Dharapuram in SC.No.33 of 2018, dated 28.08.2019 , which was confirmed by the Principal Sessions Judge, Principal Sessions Court, Tiruppur in C.A.No.91 of 2019, dated 03.07.2021, the present Criminal Revision has been filed.

2. The fact of the case is that the appellants are accused in S.C.NO.33 of 2018 on the file of the Assistant Sessions Court, Dharapuram. The accused and the injured persons are relatives. There was a dispute between the accused and the defacto complainant/injured persons with regard to a small lane behind the house of the defacto complainant,Nagaraj. On

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24.11.2017, at about 6. 50 p.m., when the defacto complainant, Nagaraj and his two brothers,namely, Manikandan(P.W.7) and Dhandapani (P.W.8) were returning to home, the accused persons waylaid them, and abused them with filthy language. Thereafter, Samikannu/A1 stabbed on left and right side of hip of the defacto complainant, Nagaraj(P.W.1) by using the knife. and A3/Mahendran stabbed on his left hip and caused injuries. A2 Vijay stabbed on the stomach of Manikandan (P.W.9) and also stabbed Dhandapani (P.W.8) on his stomach with knife and caused grievous injuries. When Kalimuthu (P.W.2), brother of Dhandapani tried to prevent the same, Vijay(A2) stabbed him on his left side of face and stomach and thus, A1 to A3 assaulted the complainant Nagaraj(P.W.1) Dhandapani(P.W.8) and Kalimuthu(P.W.2) and caused grievous injuries to them. Thereafter, the accused left the scene of occurrence and the injured persons were taken to Government Hospital by Abdul Hameed (P.W.3), Joel (P.W.4) and Senthilnathan(P.W.5). Thereafter, on intimation, Palanisamy(P.W.12), Special Sub Inspector of Police, received the complaint(Ex.P.1) from Nagaraj (P.W.1), who is admitted as inpatient in the



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Government Hospital and registered a case in crime No.569 of 2017 for the offences under Sections 341, 294(b), 307 and 506(ii) IPC. After investigation, final report has been filed against the accused persons.

3. Based on the above materials, the Trial Court framed charges for the offences under Sections 341, 294(b), 307 and 506(ii) of IPC as against accused and on questioning, the accused denied the same as false. In order to prove the prosecution case, 13 witnesses were examined as P.Ws.1 to 13, 20 documents were marked as Ex.Ps.1 to 20 besides 3 material objects (M.O.1 to M.O.3).

4. When the incriminating materials were put to the accused under Section 313 Cr.P.C., they denied the same as false. To prove their case, A1 examined himself as DW1 and 17 documents were marked as Ex.D1 to Ex.D17.



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5. Having considered all the materials, the Trial Court, by judgment dated 28.08.2019 acquitted all the accused for the offences under Sections 294(b) and 506(ii) IPC and convicted them for the offences under Sections 341 & 307 IPC and sentenced them to undergo simple imprisonment for one month each for the offence under Section 341 IPC and sentenced them to undergo simple imprisonment for four years each for the offence under Section 307 IPC and ordered to pay a fine of oRs.500/-each, in default to undergo one month simple imprisonment. Challenging the above conviction and sentence, the accused preferred an appeal before the Lower Appellate Court in Crl.A.No.91 of 2019 and the Lower Appellate Court, by an order dated 03.07.2021, dismissed the same by confirming the order passed by the Trial Court. Challenging the same, the appellants/accused are before this Court with this appeal.

6. The learned counsel for the revision petitioners/ accused submitted that the judgments of the Court below are against the fact and law. The Trial Court as well as the Lower Appellate Court had not considered the



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evidence properly and the place of occurrence was suppressed. There are material discrepancies in the prosecution witnesses. The Trial Court and the Lower Appellate Court also failed to consider the fact that the accused Samikannu(A1) sustained injury, which is also evidenced by filing OutPatient Treatment sheet(Ex.D1) issued by the Dr.Senthil(P.W.11) and also failed to consider the fact that the Investigating Officer Murugesan(P.W.13) not followed the guidelines issued in Section 566 of Police Standing Order and he has not investigated and filed the final report upon the complaint given by Samikannu(A1). Palanisamy (P.W.12), Special Sub Inspector, during the cross examination admitted that he had registered the case in Crime No.571 of 2016 upon the complaint given by the Samikannu(1), but investigation has not been done. To support the case, the learned counsel placed reliance upon the decisions reported in ***(i) AIR 1976 SCC 2263(1) (Lakshmi Singh & otrs /vs/ State of Binar,*** ***(ii) 2003(9) SCC 426 (State of Mathiyapradesh /vs/ Mishrillal (dead) and otrs) , (iii) Manu/AIR 2018 SC 2386 (Kumar /vs/ State), (iv) 2022 SCC Online Mad. 1050 (M.Venatachalam /vs/ State) and (v)***



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Crl.O.P.(MD)No.4424 of 2017 (Sujin & 5 ors /vs/ State). The learned counsel also reiterated the grounds raised in the grounds of Revision and thus, pleaded to set aside the judgment of the Trial Court as well as the Lower Appellate Court and to acquit the accused.

7. The learned Government Advocate (Criminal side) appearing for the respondent submitted that the Trial Court as well as the Lower Appellate Court, by considering the entire evidence on record, had rightly held that the prosecution has proved the guilt of the accused beyond all reasonable doubt and convicted the accused persons for the offence committed by them. Further, the reliance placed by the learned counsel for the revision petitioners/accused are not helpful to this case and also not applicable to the facts of the case for the reasons that the date of occurrence is on 24.11.2017. Further, the accused examined himself as DW1 and filed Ex.D1 to Ex.D17. The accused did not depose that he had sustained any injury in the same occurrence. In his evidence, he deposed about the occurrence took place on 22.11.2017. Therefore, the accused had not sustained any injuries during



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the course of the incident took place on 24.11.2017 and no complaint had been given by the accused for the occurrence took place on 24.11.2017. Therefore, there is no case and counter case . The alleged injuries sustained by the accused was not on 24.11.2017. The Outpatient sheet(Ex.D3) of A1 did not disclose any injuries sustained by A1. Therefore, the reliance placed by the learned counsel for the revision petitioners with regard to the non-explanation of injuries upon the accused and failure of the Investigation Officer to follow the guidelines framed under section 566 of Police Standing Order has no merit and thus pleaded to dismiss the Revision.

8. I have considered the matter in the light of the submissions made by the counsel for the parties and perused the materials available on record.

9. All the revision petitioners were prosecuted by the respondent police for having committed for the offence punishable under Sections 341, 294(b), 307 and 506(ii) IPC in S.C.No.33 of 2018 on the file of the



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Assistant Sessions Court, Dharapuram. Before the Trial Court, the prosecution examined 13 witnesses and marked 20 documents besides 3 material objects (M.O.1 to M.O.3). Samikannu/A1 examined himself as DW1 and also marked 17 documents (Ex.D1 to Ex.D17). On considering the evidence on record, the Trial Court found not guilty for the charges under Sections 294(b), 506(ii) IPC and acquitted them and found guilty for the offences under Sections 341 & 307 of IPC alone and convicted the accused as stated above. Against which, the accused persons preferred an appeal in C.A.No.91 of 2019 before the Principal Sessions Court, Tiruppur and the Lower Appellate Court, after considering the evidence on record, confirmed the judgment of the Trial Court.

10. The revision petitioners/accused persons and the injured prosecution witnesses P.W.1, P.W.2, P.W.8, P.W.9, P.W.10 are all relatives and residents of Dharapuram. The relationship of the parties are not in dispute. Further, there was a dispute between the accused persons and the injured persons with regard to the small lane behind the house of the defacto complainant/Nagaraj(P.W.1) is also not in dispute.



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11. I have gone through the evidence on record. In this case, Nagaraj (P.W.1), Kalimuthu (P.W.2), Dhandapani (P.W.8) and Manikandan(P.W.9) were sustained injuries. Samikannu/A1 stabbed on the right and left side hip of the Nagaraj(P.W.1), Mahendran/A3 stabbed on his left hip, Vijay/A2 stabbed on the stomach of Kalimuthu(P.W.2), Dhandapani (P.W.8), and Manikandan (P.W.9). In this regard, I have gone through the evidence of Nagaraj (P.W.1), Kalimuthu (P.W.2), Dhandapani (P.W.8) and Manikandan(P.W.9). All the witnesses clearly deposed about the assault made by the accused persons. Further, their evidences are also corroborated by the witnesses Abdul Hameed(P.W.3), Joel(P.W.4). These oral evidences are supported by medical evidences of Dr.Senthil (P.W.11) and the Accident Registers(Ex.P.9 to Ex.P.12). Further, the complaint (Ex.P1) was given by the complainant without any delay. There is no reason to disbelieve the evidence of the injured persons, namely, Nagaraj (P.W.1), Kalimuthu (P.W.2), Dhandapani (P.W.8) and Manikandan(P.W.9). The argument of the learned counsel for the revision petitioners that no blood



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stains in the knives (M.O.1 to M.O.3) recovered by the Investigating Officer is not enough to discard the evidence of injured witnesses, which are clear and corroborated by the independent witnesses Abdul Hameed (P.W.3), Joel(P.W.4) and the medical evidence(P.W.11)

12. I have considered further argumenmts placed by the learned counsel for the revision petitioners that the prosecution failed to explain the injuries on the Samikannu/A1 and not followed the Section 566 of Police Standing Order. I have gone through the evidence on record and also the evidence adduced by the accused Samikannu as DW1.

13. Samikannu(DW1) deposed before the trial Court about the occurrence took place on 22.11.2017. In this case, the occurrence took place on 24.11.2017 . Further, he has not stated anything about the injuries sustained by him on 24.11.2017. Further, he did not depose whether he had given any complaint with regard to the occurrence took place on 24.11.2017. In fact, he denied the occurrence took place on 24.11.2017. For



better appreciation, the evidence of the relevant portion is extracted hereunder:

" நாங்கள் மேற்படியார்களை கத்தியால் குத்தவில்லை. அவர்கள் வேண்டுமென்றே எங்கள் மீது வீண் பழி சுமத்தியுள்ளார்கள். எந்த ஒரு சம்பவமும் திருவள்ளூர் முச்சந்தியில் நடக்கவில்லை , "

Thus, he denied the occurrence took place on 24.11.2017. Further, on perusal of Out patient sheet of the Samikannu(A1) (Ex.D3), which was issued by Dr.Senthil (P.W.11), it is noticed that nothing is mentioned about the injuries upon the accused Samikannu and the Outpatient sheet(Ex.D3) was issued only on 24.11.2017 by Dr.Senthil(P.W.11). In the absence of any injury in the O.P. Sheet of Samikannu and in the absence of any evidence on material on record to show the fact that the accused Samikannu/A1 sustained injuries in the occurrence took place on 24.11.2017, the question of injuries sustained by the accused was not explained and the Police Standing Order 566 was not followed by the Investigation Officer, will not arise. Therefore, there is no merit in the



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argument of the learned counsel for the revision petitioners that the prosecution has suppressed the genesis and the origin of the occurrence and the Investigation officer has not followed the guideline framed in Section 566 of Police Standing Order. Therefore, the decisions relied on by the revision petitioners will not be helpful to support the case on hand.

14. The findings recorded in support of conviction by the Principal Sessions Judge are in conformity with the evidence on record, as such there are no grounds to interfere with the same.

15. Accordingly, this Criminal Revision Case is dismissed and the judgment passed by the Trial Court as well as the Lower Appellate Court is confirmed.

02.03.2023

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To
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1. The Principal Sessions Judge,
Principal Sessions Court,
Tiruppur.
2. The Assistant Sessions Judge,
Assistant Sessions Court,
Dharapuram.



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V.SIVAGNANAM, J.,

mrp

Pre-delivery order in
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