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Crl.A.No.74 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2023

CORAM

THE HONOURABLE **MR. JUSTICE N.ANAND VENKATESH**

Crl.A.No.74 of 2017

Dayalan

.. Appellant/Accused-1

.VS.

State by
The Deputy Superintendent of Police
Tiruvellore Taluk
Tiruvellore District.

.. Respondent/Complainant

Crime No.259/2011

Criminal Appeal filed under Section 374 of the Code of Criminal Procedure, 1973, to set aside the judgment, conviction and sentence of R.I for 6 months, and to pay a fine of Rs.1000/- in default of fine to undergo sentence for 3 months simple imprisonment dated 20.01.2017 in S.C.No.154 of 2014, on the file of Principal District and Sessions Judge, Tiruvellore.

For Appellant Mr.J.R.K.Bhavanantham

For Respondent Mr.L.Baskaran
Government Advocate (Crl Side)

JUDGMENT

This criminal appeal has been filed against the judgment and order passed by the Principal District and Sessions Judge, Tiruvellore, in S.C.No.154 of 2014 dated



20.01.2017, convicting the appellant for offence u/s 506(i) IPC and sentencing him to undergo six months rigorous imprisonment and to pay a fine of Rs.1,000/- and in default to undergo, three months simple imprisonment.

2.The case of the prosecution is that there was a previous enmity between the accused persons and the complainant (PW.1). On various dates starting from 05.08.2010 to 26.08.2010, when the complainant was doing his agricultural work in his lands, the accused persons came to that place and abused him in filthy language by using his caste and also criminally intimidated him and came with deadly weapons and also caused destruction to the property.

3.PW.1 gave a complaint on 28.07.2011 at about 14.30 hrs. Based on the same, PW.8 registered an FIR (Ex.P.7) in Crime No.259 of 2011, for offences u/s.147, 148, 294(b), 427 and 506(ii) IPC r/w Section 3(1) (V) (X) of the SC/ST Act.

4.The investigation was conducted by PW.9. He went to the scene of occurrence on 29.07.2011 at about 10.00 am., and prepared the observation mahazar marked as Ex.P.8 and rough sketch marked as Ex.P.9 in the presence of witnesses. He also recorded the statement of the witnesses u/s.161(3) Cr.PC. He collected the community certificates of the accused persons and PW.1 from PW.5 and PW.6 Tahsildars. He also recorded their statements. There was no occasion for PW.1 to arrest the accused persons since they obtained anticipatory bail. Ultimately, on completion of the investigation, the final report was laid before the Court below.



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5.The Court below issued summons to the accused persons and served the copies to them u/s.207 Cr.PC. The Court below framed charges against five accused persons for offences u/s.148, 294(b), 506(ii) and 427 IPC and also 3(1)(V) and 3(1)(X) of the SC/ST Act. When these charges were put to the accused persons, they denied the same and pleaded not guilty.

6.The prosecution examined PW.1 to PW.9 and marked Ex.P.1 to Ex.P.9. The incriminating evidence that was gathered during the course of trial was put to the accused persons and they denied the same as false.

7.The Trial Court on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, convicted the appellant (A.1) for offence u/s.506(i) IPC and sentenced him. He was acquitted from all other charges. Insofar as A.2 to A.5 are concerned, they were acquitted from all charges. Aggrieved by the same, A.1 has filed the present criminal appeal.

8.Heard Mr.J.R.K.Bhavanantham, learned counsel for the appellant and Mr.L.Baskaran, learned Government Advocate (Crl Side) for the respondent.

9.This Court has carefully considered the submissions made on either side and the materials available on record.



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10.It is evident from the deposition of PW.1 to PW.3 that there was a land dispute and there was a previous enmity between the parties. The Court below on appreciation of evidence clearly found that there was a complete exaggeration of the entire incident by PW.1 to PW.3. That apart, it was also found that the nature of dispute between the parties was civil in nature.

11.One very important fact that has to be taken into consideration in the present case is that there was an exorbitant delay of nearly one year in lodging the complaint. This delay has not been properly explained and in fact the Trial Court has given a finding to the effect that there is already a civil litigation between the parties and the complaint itself has been given as an afterthought. After having given such a finding, the Trial Court has come to a conclusion that A.1 has criminally intimidated PW.1 and thereby, he was convicted for offence u/s 506(i) IPC and accordingly, sentenced.

12.In the considered view of this Court, benefit of doubt that was given for A.2 to A.5 ought to have been extended to A.1 also. The case of the prosecution ought to have been thrown out on the ground of delay in the absence of any proper explanation for such a delay. Apart from the same, PW.1 has attempted to convert a civil case into a criminal case and that is the reason why it took nearly one year even to give the complaint during the pendency of the civil litigations between the parties. There is absolutely no justification for the Trial Court to have convicted A.1 alone for offence u/s 506(i) IPC. A.1 was aged about 75 years even while he was convicted by the Court



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below. This Court does not find any justification to sustain the judgment of conviction and sentence imposed by the Court below.

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13.In the result, the judgment and order passed by the Principal District and Sessions Judge, Tiruvellore, in S.C.No.154 of 2014 dated 20.01.2017 is hereby set aside and the appellant (A.1) is acquitted from all charges and accordingly, this criminal appeal stands allowed. The appellant (A.1) was enlarged on bail during the pendency of this criminal appeal. The bail bonds executed by the appellant (A.1) shall stand cancelled and fine amount, if any, paid by the appellant shall be refunded to him.

05.04.2023

KP

Internet : Yes/No

Index : Yes/No

Speaking Order:Yes/No

Neutral Citation :Yes/No

To

1.Dy. Superintendent of Police
Tiruvellore Taluk
Tiruvellore District.

2. Principal District and Sessions Judge,
Tiruvellore.

3.The Public Prosecutor
High Court, Madras.



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N.ANAND VENKATESH,J.

KP

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