



CrI.R.C.No.1210 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

CrI.R.C.No.1210 of 2019

T.Ramesh

...Petitioner

–Vs–

The State by
The Inspector of Police,
Kachirapalayam Police Station,
Villupuram District,
Crime No.277 of 2012

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 and 401 of Criminal Procedure Code, against the conviction and sentence passed on him by the learned Judicial Magistrate No.1, Kallakurichi in C.C.No.30 of 2014 judgment dated 12.03.2019 and confirmed by the learned III Additional District Judge, Kallakurichi in C.A.No.26 of 2019 judgment dated 30.08.2019 convicting the revision petitioner sentenced to undergo two years simple imprisonment and to pay a fine of Rs.2000/- in default to pay the fine amount undergo one month simple imprisonment for under Section 324 of I.P.C.



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For Petitioner : Mr.P.Rajavel

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

J U D G M E N T

The convicted first accused is the Revision Petitioner herein.

2. The respondent-Police filed a final report before the learned Judicial Magistrate, Kallakurichi in Crime No.30 of 2014.

3. The case of the prosecution is that there was previous enmity between the family of de-facto complainant Ramalingam and the accused Ramasamy in respect of the land. On 24.07.2012 at about 7.30 a.m, when the de-facto complainant went to Sundaram Tea Stall at Mathur Village, A1 to A8 formed an unlawful assembly and A3 abused the de-facto complainant in filthy language " தேவடியா பயலே. வள்ளி பாட்டி லதாவுக்கு எழுதிய உயிலை ஒழுங்கு மரியாதையாக எங்களிடம் ஒப்படைத்து விடு " and also caught hold of P.W.1's shirt. At that time, the 2nd accused told " நீ உயிரோடு இருந்தால்தானே என்று கூறி " and attacked him on his left cheek by using his hand and thereby caused simple injury. A1 attacked P.W.1 on his chest through his legs, and he took the iron rod from the tea shop and attacked P.W.1 on his right knee and caused



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grievous injury and in the course of the same transaction, A3 attacked the P.W.1 through the stone on his back side of his head and caused simple injury, the 4th accused slapped the P.W.1 on his face and caused simple injury and further, A1 threatened P.W.1 with dire consequences and when the said incident was prevented by the witnesses P.Ws 2 to 4, they were also abused by the accused persons and the witness Chinnaponnu's tuft was caught hold by A7 and he caused simple injury to her and in the course of the same transaction, P.W.3, Latha @ Bharathi was also attacked by the accused A5 and A8 through their legs and caused simple injury, thereby A1 has been charged under Sections 147, 148, 294(b), 323 and 506 (ii) of I.P.C and as against A2, charges under Sections 147, 294(b) and 323 of I.P.C, as against A3 charges under Sections 147, 294(b) and 324 of I.P.C, as against A4 under Sections 147, 294(b) and 323 of I.P.C, as against 5th accused under Sections 147, 294(b) and 323 of I.P.C, as against A6 under Sections 147 and 294(b) of I.P.C, as against A7 under Sections 147, 294(b) and 323 of I.P.C and as against A8, under Sections 147, 294(b) and 323 I.P.C were framed.

4. The prosecution has examined P.W.1 to P.W.11 and Ex.P1 to P8 were marked. Ex.D1 to D3 were marked. On the side of defence, no case properties were marked.



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5. On appeal, by A1 and A3, the Trial Court has modified the sentence of A3 as payment of fine. However, the lower Appellate Court observed that since there is an injury on P.W.1, the first accused was convicted under Section 324 of I.P.C and sentenced to undergo 2 years S.I and fine of Rs.2000/- fine is paid. Aggrieved by the same, this revision is filed by A1.

6. Heard the learned counsel appearing for the revision petitioner and the learned Government Advocate (Crl.Side).

7. After hearing the rival submissions and after perusing the records, whether the conviction laid by the Courts below against A1 under Section 324 I.P.C and the sentenced therefor, is in commensurate with the proved offence.

8. P.W.1 is the injured person. A1 is said to have caused grievous injury and hence the respondent-Police initially filed a charge sheet in respect of that under Section 326 I.P.C.



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9. After trial, the learned Magistrate has found that since X-Ray copy was not marked, classification of the injury as simple or grievous injury could not be termed and accused was not given the benefit of cross-examination as to the nature of the injury. In view of the non-marking of the x-Ray, it appears to have relied upon the decision of this Court in 2015 (1) LW CrI 137 [K.Ragupathi Vs.State represented by Inspector of Police, Chennai] and accordingly, the first accused was convicted under Section 324 I.P.C The trial Court appears to have believed the version of P.W.1 to P.W.4 and the Medical Officer who admitted P.W.1 namely P.W.7.

10. Admittedly, the material object, namely the knife and rod alleged to have been used by the accused to make an injury below the knee was not produced by the Investigation Officer. The evidence of P.W.11, Investigation Officer has simply stated that he is not seized the material object.

11. At this juncture, it remains to be stated that in the very said appearance, Vanitha, Ramesh and Sudha have also suffered injury, as could be seen from Ex.R1 to R3, which are the accident register of



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Vanitha A4, Ramesh A1 and Sudha A3. This goes to show that A1 also suffered injury in the very same incident. For the reasons best known, the Investigation Officer has not filed charge sheet in the counter case. During the cross examination of P.W.11, Investigation Officer has fairly admitted that he has not taken steps to complete the enquiry in the counter case given by the accused herein. The case filed by the accused herein for the injuries sustained by them said to have been caused by the P.W.1 to P.W.4, assumes significance.

12. At this juncture, I find that, Ex.P4 wound certificate, the opinion of the Doctor has been taken. It was recorded by P.W.9 at the time of the admission of P.W.2 Ramalingam on 24.07.2012 at 8.00 P.M wherein, the injured P.W.1 has categorically stated that he was assaulted by 9 unknown person with hands and pulled down on 24.07.2012 at 7.30 a.m.

13. At this juncture, it remains to be stated that the statement which came into existence at the earliest point of time is Ex.P4, to show the alleged reference said to have been used, in which, there is no opinion about the use of rod by A1 against P.W.2 and hence, I find that the sentence granted by the lower Appellate Court is modified.



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14. Accordingly, the conviction under Section 324 I.P.C is held sustainable and taking note of the fact that the use of the alleged rod by A1 against P.W.1, was not even mentioned by P.W.1 at the time of the admission, as could be seen from Ex.P4. From the oral evidence of P.W.7 Doctor, it has to be treated as a simple injury.

15. Accordingly, the conviction under Section 324 I.P.C is held to be sustainable. However, the sentence is modified into fine of Rs.7000/- out of which, already Rs.2000/- was deposited and hence, the revision petitioner is hereby required to deposit Rs.5,000/- as fine within a period of two weeks from the date of receipt of a copy of this order. On such deposit, the learned Magistrate shall pay Rs.2000/- +Rs.5000/- =Rs.7,000/- as damages to P.W.1 as a compensation.

16. With these observations, this Criminal Revision is partly-allowed to the limited extent indicated above and the conviction laid by the lower Appellate Court is hereby confirmed and the sentence passed by the lower Appellate Court is modified as stated supra.

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Speaking Order: Yes/No
Neutral Citation : Yes/No

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To

1. The III Additional District Judge, Kallakurichi, Villupuram District
2. The Judicial Magistrate No.1, Kallakurichi,
3. The Inspector of Police,
Kachirapalayam Police Station,
Villupuram District,
4. The Public Prosecutor,
High Court, Madras.



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RMT.TEEKAA RAMAN,J.,

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