



CrI.R.C.No.8 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2023

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

CrI.R.C.No.8 of 2020

Thangaraj

... Petitioner

Vs.

1. Vadamalai

2. Sathiyamoorthy

3. State represented by
The Inspector of Police,
Pudhuchathiram Police Station.

... Respondents

Prayer:

Criminal Revision Case is filed under Section 397 & 401 of Cr.P.C., to call for the records and set aside the judgment in CrI.A.No.126 of 2018 dated 20.09.2019 passed by the learned Principal District and Sessions Judge, Cuddalore, confirming the judgment of acquittal in C.C.No.44 of 2016 dated 27.11.2018 passed by the learned District Munsif cum Judicial Magistrate, Portonovo and allow the revision.



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Crl.R.C.No.8 of 2020

For Petitioner : Mr.A.Praveen kumar

For R1 & R2 :M/s.C.Prakasam

For R3 : Mr.S.Sugendran
Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed to set aside the judgment dated 20.09.2019 passed in Crl.A.No.126 of 2018 on the file of the learned Principal District and Sessions Judge, Cuddalore, confirming the judgment of acquittal dated 27.11.2018 passed in C.C.No.44 of 2016 on the file of the learned District Munsif cum Judicial Magistrate, Portonovo.

2. Third respondent police registered the case in Crime No.280 of 2015 against the first and second respondents based on the complaint given by the revision petitioner for the offence under Sections 447, 294(b) and 506(i) IPC. After investigation, the third respondent police laid a charge sheet before the learned District Munsif cum Judicial Magistrate, Portonovo. The learned Magistrate has taken the charge sheet on file in C.C.No.44 of 2016 and framed

2/7



Crl.R.C.No.8 of 2020

the charges against the first and second respondents/accused for the offence under Sections 447, 294(b) and 506(i) IPC. After trial, the learned Magistrate has not found the accused guilty and acquitted them from the abovesaid charges. Challenging the said judgment of acquittal, the defacto-complainant filed an appeal before the learned Sessions Judge, Cuddalore in Crl.A.No.126 of 2018. The learned Sessions Judge after hearing the arguments advanced on either side and re-appreciated the evidences, dismissed the appeal by confirming the judgment of acquittal passed by the learned Magistrate. Aggrieved over the same, the defacto-complainant has filed the present Criminal Revision Case before this Court.

3. Specific case of the prosecution is that on 21.11.2015 at about 8.00pm, the respondents 1 and 2/accused persons came to the house of one Kaliyamoorthi and enquired the defacto complainant/revision petitioner about his father Kaliyamoorthi and abused his father with filthy language and also threatened him with dire consequences. Hence the defacto complainant has lodged a complaint before the third respondent police herein against the respondents 1 and 2.



CrI.R.C.No.8 of 2020

4. Though several opportunities were given to argue the matter, today, when the matter is taken up for hearing, the learned counsel for the revision petitioner/defacto complainant has sought time for arguing the matter. Since the Calendar Case is of the year 2016 and the Criminal Revision Case is pending from 2020, this Court is not inclined to adjourned the matter further and inclined to decide the matter on merits.

5. While disposing the case, both the Courts below elaborately discussed about the evidence of all the witnesses and materials, not found the respondents 1 and 2/accused guilty and acquitted them from all the charges. Both the Courts below have also pointed out the contradictions between the evidence of all the witnesses and also the prior animosity between both the revision petitioner/defacto complainant and the respondents1&2/accused. No corroborative evidence has been made by the prosecution in this case. No plausible explanation has been given for delay in filing the complaint and registering the case. Presence of all eye witnesses in the occurrence place at the time of occurrence was doubtful and the same was not established by the revision petitioner beyond reasonable doubt.



Crl.R.C.No.8 of 2020

6. The scope of the revision is very limited and the revisional court while dealing with the revision, has to see as to whether there is any perversity in the appreciation of evidence in the judgment. Therefore, while deciding the revision, the Revisional Court cannot sit in the arm chair of the appellate court and re-appreciate the entire materials. On the reading of the materials, both the Courts below have passed concurrent judgments and rightly acquitted the accused persons. In this case, there is no perversity in the appreciation of evidence and there is no merit in the revision.

7. Further it is a well settled proposition of law that in appeal or revision against the order of acquittal, the accused are getting double presumption. Fundamentally the accused is presumed to be innocent and when the Court below confirmed his innocence and acquitted him, the appellate court or revisional court, while reversing the judgment of acquittal, has to find compelling circumstances and give reasons for rebutting the presumption of innocence.



CrI.R.C.No.8 of 2020

8. On a reading of the entire materials and the judgments of both the Courts below, this Court does not find any compelled circumstances to reverse the judgment of acquittal recorded by the courts below. This Court does not find any merit in the Revision and the same is liable to be dismissed. Accordingly, the Revision Case is dismissed.

23.01.2023

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Index:yes/No

Internet:yes/No

To

1. The Principal District and Sessions Judge,
Cuddalore.
2. The District Munsif cum Judicial Magistrate,
Portonovo.
3. The Inspector of Police,
Pudhuchathiram Police Station.
4. The Public Prosecutor,
High Court, Madras.

6/7



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CrI.R.C.No.8 of 2020

P.VELMURUGAN, J.

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CrI.R.C.No.8 of 2020

23.01.2023