



Crl.R.C.No.1291 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22.06.2023

PRONOUNCED ON : 30.06.2023

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.1291 of 2019

Narayanasamy

... Petitioner/2nd Accused

Vs.

State by the Inspector of Police,
Kaveripattinam Police Station,
Kaveripattinam,
Krishnagiri Taluk & District.
[Cr.No.545 of 2015]

.. Respondent/Complainant

PRAYER : This Criminal Revision Case is filed under Section 397 read with Section 401 of Cr.P.C., against the judgment of the learned Additional Sessions Judge of Krishnagiri dated 08.07.2019 in Crl.App.No.51 of 2018 confirming the judgment of the learned Judicial Magistrate No.1, Krishnagiri dated 09.10.2018 in C.C.No.136 of 2015.

For Petitioner : Mr.V.Nicholas

For Respondent : Mr.J.Priyadarsana
Government Advocate (Crl.Side)



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ORDER

Convicted 2nd accused (A2) is the revision petitioner herein.

2. The respondent police filed charge sheet against A1 and A2 for alleged offence under Sections 294 (b), 341 and 324 and 506 (ii) of IPC.

3. Before the trial Court, A1 stood charged for the offence under Sections 294(b) and 341 of IPC and A2 was charged for the alleged offence under Sections 29b(b), 324 and 506 (ii) of IPC.

4. During the trial, on the side of the prosecution, PW1 to PW7 were examined and exhibits viz., Ex.P1 to P6 were marked. No material object was marked. On the side of the defence, no oral or documentary evidence has been let in.



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5. (a) The trial Court has convicted the accused 1 and 2 and imposed a fine of Rs.1000/- for offence under Section 294(b) IPC, failing which to undergo simple imprisonment for one week. The trial Court imposed a fine of Rs.500/- on A1 for offence under Section 341 of IPC failing which to undergo simple imprisonment for one week.

(b) The trial Court further convicted and sentenced A2 to undergo simple imprisonment for two years and imposed fine of Rs.1000/- for offence under Section 324 of IPC and to undergo simple imprisonment for one week and imposed fine of Rs.500/- for offence under Section 506 (ii) of IPC.

6. Against the said judgment of the learned Judicial Magistrate No.1, Krishnagiri, A2 filed an appeal before the learned Additional Sessions Judge, Krishnagiri in CrI.Ap.No.51 of 2018 and the said appeal was dismissed. Hence, the revision.



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7. Learned counsel for the revision petitioner/A2 submitted that the evidence of injured-PW1 and PW2, is not believable and the alleged weapon said to have been used was not seized by the police. No explanation has been offered by the investigation for the non-seizure of the weapon. The sentence passed by the trial Court is excessive.

8. The learned Government Advocate (Crl.Side) appearing for the respondent made submissions in support of the judgment of the trial Court.

9. After hearing the submissions of the learned counsel on either side and on perusal of the record, I find that on the occurrence day i.e. on 08.07.2015 at 9 am, when PW1 Chinnathambi was standing near his house since the fence was removed by his workers for the purpose of white washing, A1 and A2 came to the place of occurrence and they quarrelled with the defacto complainant and also scolded him by using filthy language and A1 restrained the defacto complainant by holding him tightly and A2 took a billhook from his house and made a laceration over the parietal



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region of the head of PW1 measuring 12x1x1cm, Bone Exposed, Bone cut present 10x1x1cm with minimal and in the course of quarrel, A1 and A2 also threatened PW1 with dire consequences.

10. To support the case of prosecution, the defacto complainant was examined as PW1. In his evidence he has clearly deposed that there is a fence in between his house and accused house and it was removed by the workers of PW1 for white washing purpose. Due to that on 08.07.2015 both the accused came to his house at 9.00am and both of them used filthy language in the public place and also A1 hold him tightly and restrained him from moving and A2 went to his house and brought a billhook and also injured him in the center of head and both of them also threatened him with dire consequences. The occurrence was witnessed by PW4-Sriram and PW2-Sakthivel.

11. After going through the evidence of PW1 and PW2, I find that there is nothing in the cross examination to discredit their evidence. A2



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stands charged for the offence under Sections 294(b), 324 and 506(ii) of IPC. PW6 is the Doctor, who had given treatment. On a combined reading of the evidence of PW1 and PW6-Doctor, coupled with Ex.P3-Wound Certificate/Accident Register, I find that after the occurrence the defacto complainant went to Kaveripattinam Government Hospital and the medical officer PW6-Hariram gave treatment to him. PW6-Dr.Hariram deposed in his evidence that on 08.07.2015, when he was working at Kaveripattiam Community Health Center, PW1-Chinnathambi was brought by his relative for treatment and had stated that two male persons injured him near his house on the same day at 10.00am. PW1 clearly deposed in his evidence and as well as in the complaint statement that the occurrence took place at 9.00am.

12. PW6-Doctor in his chief examination has categorically stated about the injuries i.e. “laceration over the parietal region measuring 12x1x1cm Bone Exposed, Bone cut present 10x1x1cm with minimal depth and the person (PW1) was also conscious at the time of treatment”, and that



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he gave first aid to him and referred him to Krishnagiri Government Hospital for further treatment. He also deposed that the defacto complainant got further treatment at Narayana Health Hospital and all the injuries were simple in nature.

13. According to the evidence of PW6-Doctor evidence, after the occurrence, PW1 was taken to Community Health Centre at Kaveripattinam by his son PW5-Muthukumar and PW6-Doctor gave treatment to him for the injuries sustained by him. Further, in his evidence, PW6-Dr.Hariram, has clearly deposed the injuries sustained by PW1 and the nature of injury.

14. Thus, on a combined reading of the oral and documentary evidence of PW1-injured and medical evidence of PW6-Doctor, coupled with Ex.P3-Wound certificate/Accident Register, both the Courts below have come to the conclusion that there are fresh injuries, for which treatment was given.



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15. It remains to be stated that the injuries are found on the frontal region of the head of the PW1. It is a laceration injury. Weapon was not admittedly marked as a material object before the trial Court.

16. On perusal of the oral evidence of police witness, PW7, there is nothing in the cross examination touching upon the non recovery of the weapon of the crime and there is no suggestion regarding non use of the said alleged weapon of crime.

17. Though, the learned counsel for the revision petitioner could contend that no independent eye witnesses were examined and the evidence of PW1 is to be discarded, this Court is unable to accept the said contention for more than one reason. Injured is the best witness to speak about the manner of the incident and the attack by the accused on his body. In the absence of any clear motive for false implication, his evidence cannot be discarded.



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18. In the instant case, admittedly, use of the weapon viz., Billhook was clearly mentioned by PW1 at earliest point of time under Ex.P3-Wound Certificate/Accident Register, which was immediately after the injury, when he was taking treatment at the Government Community Health Centre, Kaveripattinam and he has clearly deposed about it before PW6-Doctor.

19. Thus, the oral evidence of private prosecution witnesses PW1 (injured) is duly corroborated by the medical evidence of PW6 coupled with the corroboration of Ex.P3-Wound certificate/Accident Register and admittedly, there were two injuries i.e., laceration over the parietal region of the head measuring 12x1x1cm, Bone Exposed, Bone cut present, 10x1x1cm with minimal depth. Further, utterance of obscene/filthy words and criminal intimidation are also proved and hence, both the Courts below have rightly and concurrently held that the charge under Sections 324, 294(b) and 506(ii) IPC are made out and I find the conviction is sustainable.



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20. On the quantum of sentence, heard the learned counsel for the revision petitioner/A2.

21. Taking into consideration the seat of the injury, nature of the injury and also the weapon used and the age of the accused and the victim, I am inclined to modify the sentence imposed upon the revision petitioner/A2. Accordingly, the conviction and sentence passed by the learned Judicial Magistrate No.1, Krishnagiri vide judgment dated 09.10.2018 in C.C.No.136 of 2015 as against A2/revision petitioner is modified and it is ordered as follow:

(i) The conviction and sentence imposed upon A2/revision petitioner for the offence under Sections 294 (b) of IPC, is confirmed.

(ii) The conviction of A2/revision petitioner for the offence under Section 324 of IPC, is confirmed. However, the sentence of two years simple imprisonment is reduced to six



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months simple imprisonment. The fine amount and the default clause imposed by the trial Court, is kept intact.

(iii) The conviction of A2/revision petitioner for the offence under Section 506 (ii) of IPC, is confirmed. However, the sentence of one year simple imprisonment is reduced to six months simple imprisonment. The fine amount and the default clause imposed by the trial Court, is kept intact.

(iv) The sentences awarded for the offence under Sections 324 and 506(ii) of IPC shall run concurrently.

(v) As the revision petitioner/A2, is on bail, the trial Court shall take steps to secure the revision petitioner/A2, to commit him in prison to serve out the remaining period of sentence.

(vi) The period of sentence already undergone by the revision petitioner/accused, shall be set off under Section 428 of the Code of Criminal Procedure.



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22. With the above modification, the Criminal Revision case is partly allowed.

30.06.2023

Index : Yes/No
Speaking / Non-Speaking Order
Neutral Citation : Yes/No

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To

1. The Additional Sessions Judge,
Krishnagiri.

2. The Judicial Magistrate No.1,
Krishnagiri.

3. The Inspector of Police,
Kaveripattinam Police Station,
Kaveripattinam,
Krishnagiri Taluk & District.

4. The Public Prosecutor,
High Court, Madras.



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RMT.TEEKAA RAMAN,J.,

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Pre-delivery order in
Crl.R.C.No.1291 of 2019

30.06.2023