



Crl.R.C(MD)No.653 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.653 of 2010

Sivakumar

... Revision Petitioner/
Appellant/Accused

Vs.

The Sub-Inspector of Police,
Thanjavur Medical College Police Station,
(In Crime No.224 of 2006),
Thanjavur District.

... Respondent/
Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the Judgment passed in C.A.No.44 of 2008, dated 29.09.2008 on the file of the learned Additional District and Sessions Judge, Special Judge for EC Act, Thanjavur, arising from C.C.No.714 of 2006, dated 21.04.2008 on the file of the learned Judicial Magistrate No.2, Thanjavur and set aside the same and acquit the petitioner from all the charges levelled against him.

For Petitioner : Mr.T.Kamaraj

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Criminal Side)



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ORDER

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The revision has been filed to set aside the Judgment passed in C.A.No.44 of 2008, dated 29.09.2008, on the file of the learned Additional District and Sessions Judge, Special Judge for EC Act, Thanjavur, arising from C.C.No.714 of 2006, dated 21.04.2008 on the file of the learned Judicial Magistrate No.2, Thanjavur and acquit the petitioner from all the charges levelled against him.

2.The case of the prosecution is that while the defacto complainant-P.W.1 was returning from the tea shop to his house, due to previous enmity, the petitioner/accused called him and abused him in filthy language and as such, the accused stabbed him in his stomach on the left side and on his backside. Therefore, P.W.1 sustained injuries. Immediately, he was taken to the Hospital. On the complaint, the respondent registered the F.I.R and after completion of the investigation, filed a final report and the same has been taken cognizance by the trial Court for the offences under Sections 294(b), 324, 326 and 506(ii) of I.P.C.



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3.On the side of the prosecution, they had examined P.W.1 to P.W.10 and marked Exs.P.1 to P.11 and the prosecution also marked M.O.1 and on the side of the accused, no one was examined and marked Ex.R.1.

4.On perusal of the oral and documentary evidence, the trial Court found the petitioner guilty for the offence under Sections 324 and 326 of I.P.C and acquitted him for the offences under Sections 294(b) and 506(ii) of I.P.C. For the offence under Section 326 of I.P.C, he was sentenced to undergo six months Rigorous Imprisonment and imposed a fine of Rs.1,000/-, in default to pay the fine, shall undergo one month Simple Imprisonment. No sentence was imposed for the offence under Section 324 of I.P.C. Aggrieved by the same, the petitioner preferred an appeal in C.A.No.44 of 2008 on the file of the learned Additional District and Sessions Judge, Special Judge for EC Act, Thanjavur and the Appellate Court also confirmed the conviction and sentence imposed by the trial Court and dismissed the appeal. Hence, the present revision.



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5.The learned counsel appearing for the petitioner would submit that there are contradictions between the prosecution witnesses. It would be fatal to the case of the prosecution. Except P.W.1, no other independent witness was examined by the prosecution in order to prove the charges to home. According to the case of the prosecution, P.W.1 and P.W.5 alone are eyewitnesses, who spoke about the occurrence. In fact, P.W.1 to P.W.4 are interested witnesses and they are relatives and P.W.5 is residing in the same street. P.W.6 is the Mahazar witness, who did not witness the seizure of the material object. The Doctor, who treated P.W.1 was examined as P.W.7, and he issued an accident register. The Doctor, who treated P.W.1 was examined as P.W.8. According to P.W. 8-Doctor, only one injury was grievous in nature, and he issued a wound certificate. P.W.1 stated in his chief examination that the occurrence had happened when he was proceeding to his house from the tea shop. Whereas, P.W.2 says that while P.W.1 was standing in the tea shop, the occurrence had occurred. Likewise, there is a contradiction between P.W.1 and P.W.9, who recorded the statement of P.W.1. Therefore, these contradictions are fatal to the case of the prosecution and prayed for acquittal of the petitioner from all the charges.



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6.The learned Government Advocate (Criminal Side) appearing for the respondent would submit that it is a case of stab injury and as such, the victim sustained grievous injuries on his stomach. In order to bring the charge to home, the prosecution had examined P.W.1 to P.W.10 and marked Exs.P.1 to P.11. The knife which was used in the crime was marked as M.O.1. Therefore, both the Courts below rightly convicted the petitioner for the offences under Sections 324 and 326 of I.P.C.

7.Heard the learned counsel appearing on either side and perused the materials available on record.

8.The petitioner is the sole accused. On the date of occurrence, when P.W.1 was returning home from the tea shop, the petitioner called him and scolded him with filthy language for the reason that on 04.09.2006, one Rajan, while he was in his house, told the petitioner's daughter that he does not like her. Due to which, there was a quarrel between the petitioner and the defacto complainant family. Due to the said enmity, on the next day, namely on 05.09.2006, at about 07.00 a.m., the petitioner called P.W.1 and stabbed him by knife/M.O.1 on his left side stomach. When P.W.1



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turned, again the petitioner stabbed him on his left side back.

Therefore, P.W.1 sustained injuries. Immediately, P.W.1 was taken to Medical College Hospital and admitted as an inpatient. On the same day, his statement was recorded and recovered the material object. The victim was examined as P.W.1 and his brother was examined as P.W.2. After hearing the noise from P.W.1, P.W.2 came out from his house and saw the accused and also the injuries found on the body of the victim. Immediately, he was taken to the hospital by him.

9. On perusal of the evidence of P.W.1 revealed that on 04.09.2006 at about 05.00 pm., when one Rajan, while he was in his house, told the petitioner's daughter that he does not like her. The petitioner's daughter informed her mother. The petitioner's wife quarrelled with the said Rajan and pulled his shirt. When the defacto complainant intervened, she also abused him in filthy language. Due to the said enmity, on the next day, namely on 05.09.2006, when P.W.1 was drinking tea in the tea shop, the petitioner called him and stabbed him on his stomach and on his left back side. He also scolded him in filthy language. Immediately, he was taken to the Hospital. One of the eyewitness was examined as P.W.4. He also corroborated the evidence of P.W.1. The mahazar witness was also



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categorically deposed in order to support the case of the prosecution. The Doctor, who was examined as P.W.7 deposed that P.W.1 sustained the cut injury on his stomach and also on his left shoulder. He recorded the accident register, which was marked as Ex.P.5.

10.On perusal of Ex.P.5 revealed that the defacto complainant was stabbed by the petitioner. It is also corroborated by P.W.8, who had given a wound certificate. Therefore, the prosecution proved its case beyond any doubt and the Courts below rightly convicted the petitioner for the offences under Sections 324 and 326 of I.P.C.

11.The learned counsel appearing for the petitioner would submit that considering the age of the petitioner, the sentence may be reduced to the period which he had already undergone on payment of some compensation to the victim.



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12.In view of the above, the conviction passed by the trial Court for the offences under Sections 324 and 326 of I.P.C is hereby confirmed. In so far as the sentence for the offence under Section 326 is concerned, it is reduced to the period which he had already undergone on condition that the petitioner shall pay a sum of Rs.10,000/- (Rupees Ten Thousand Only) by way of Demand Draft to P.W.1 directly and produce the receipt before the respondent on or before 10.04.2023, failing which, the respondent is directed to secure the petitioner and set him for the remaining period of sentence.

13.Accordingly, this Criminal Revision Case is partly allowed.

15.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

- 1.The Additional District and Sessions Judge,
Special Judge for EC Act,
Thanjavur.
- 2.The Judicial Magistrate No.2,
Thanjavur.
- 3.The Sub-Inspector of Police,
Thanjavur Medical College Police Station,
Thanjavur District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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