



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 22.06.2023

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CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.A.(MD)No.244 of 2016

Annadurai

... Appellant/Sole Accused

vs.

The State of Tamil Nadu,
Represented by,
The Inspector of Police,
Karimedu Police Station,
Madurai District.
Crime No.103 of 2014.

... Respondent/Complainant

PRAYER : Criminal Appeal has been filed under Section 374 of Cr.P.C., to set aside the impugned Judgment of conviction and sentence passed by the I Additional Sessions and District Judge, Madurai, dated 26.04.2016 in S.C.No.227 of 2014.

For Appellant : Mr.V.Thirumal
Legal Aid Counsel

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor



JUDGMENT

This Criminal Appeal has been preferred as against the Judgment and conviction made in S.C.No.227 of 2014, dated 26.04.2016, on the file of the learned I Additional Sessions and District Judge, Madurai, thereby convicted the appellant for the offence under Section 3(1) of the TNPPDL Act.

2.The case of the prosecution is that the accused is a tenant of the shop premises belonging to the mother of the defacto complainant. He is running a Tyre shop at Door No.296, Ramachandra Nagar Bye-Pass Main Road, Madurai, for the past 13 years. Since the accused has not renewed the agreement for lease and he has also not paid the rent, the mother of the defacto complainant filed a petition for recovery of rent in R.C.O.P.No.308 of 2013 on the file of the Principal District Munsif Court, Madurai. While pending the said petition, on 29.01.2014 at about 12 to 12.30 noon, when the defacto complainant and his family members heard a noise and had seen that the tiles of the rented premises were being broken and damaged by the accused with the help of JCB without any prior permission. The JCB was operated by its operator on the instruction of the accused. The entire flooring was put up with tiles and all the tiles were broken and caused damage to the tune of Rs. 19,800/-. When it was questioned by the defacto complainant and



his family members, the accused abused them with abusive words and also threatened them with dire consequences. Hence, the complaint.

3. Based on the complaint, the respondent registered the F.I.R in Crime No.103 of 2014 for the offences under Sections 294(b), 427 and 506(i) of I.P.C. After completion of the investigation, the respondent filed an alteration report and the same has been taken cognizance by the trial Court for the offences under Sections 294(b) and 506(i) of I.P.C and Section 3 of the TNPPDL Act in S.C.No.227 of 2014 on the file of the learned I Additional Sessions and District Judge, Madurai.

4. On the side of the prosecution, they had examined P.W.1 to P.W.10 and marked Exs.P.1 to P.7 and the prosecution has also marked M.O.1 and on the side of the accused, no one was examined and no documents were marked in order to disprove the case of the prosecution.

5. On perusal of both oral and documentary evidence, the trial Court acquitted the accused for the offences under Sections 294(b) and 506(i) of I.P.C and found the accused guilty for the offence punishable under Section 3(1) of the TNPPDL Act and



sentenced to undergo one year Simple Imprisonment and to pay a fine of Rs.5,000/-, in default to undergo two months Simple Imprisonment. Further, the appellant was also directed to pay a sum of Rs.19,800/- as compensation to the defacto complainant. Aggrieved by the same, the present Appeal.

6.The learned counsel appearing for the appellant would submit that the prosecution failed to prove its case beyond any doubt. In fact, the trial Court acquitted the appellant for the offences under Section 294(b) and 506(i) of I.P.C and there is absolutely no material to convict the appellant for the offence under Section 3(1) of the TNPPDL Act. Admittedly, the appellant is a tenant under the defacto complainant for the past 13 years. The appellant is running a tyre shop. In fact, P.W.1 agreed for the renovation of the shop and enhanced the rent to the tune of Rs. 11,000/-. Accordingly, the appellant regularly paid rent and even then in order to vacate the appellant, P.W.1 foisted a false case. While he is running a tyre shop, he was allotted a dealership of a particular tyre company and the wheel alignment section is mandatory to have a tyre dealership. Therefore, after due permission from P.W.1, the appellant with the help of JCB dug up a small pit in the rented premises to install a tyre balancing instrument. Therefore, Section 3(1) of the TNPPDL Act is not at all



attracted as against the appellant. The offence itself is not attracted, since the petitioner never had any intention to cause damage to the building owned by P.W.1 and admittedly, he is a tenant under P.W.1. Therefore, the entire conviction under Section 3(1) of the TNPPDL Act cannot be sustained as against the petitioner and prayed for acquittal of the appellant.

7.Per contra, the learned Additional Public Prosecutor appearing for the respondent would submit that though the appellant is a tenant under P.W.1, without his permission, he completely damaged the floor of the rented premises. In fact, the operator of JCB was examined as P.W.6 and he categorically deposed that only on the instruction of the appellant, he was engaged to demolish the entire flooring of the rented premises worth about Rs.19,800/-. Therefore, the trial Court rightly convicted the appellant for the offence under Section 3(1) of the TNPPDL Act and the same does not warrant any interference by this Court.

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

9.Admittedly, the appellant is a tenant under P.W.1 in a shop situated at Door No.296, Ramachandra Nagar Bye-Pass Main



Road, Madurai, for the past 13 years. He is running a tyre shop in the rented premises. The premises is owned by the mother of P.W.1 and she filed a petition in R.C.O.P.No.308 of 2013 on the file of the Principal District Munsif Court, Madurai, for recovery of rent under the Rent Control Act. While pending the said R.C.O.P proceedings, the appellant in order to Install a wheel alignment instrument in the rented premises, engaged JCB to dig up a small pit. The JCB was operated by P.W.6 and dug up a pit in order to install a wheel alignment instrument. Therefore, the entire floor of the rental premises was dug up and completely removed the floor tiles. P.W.1 deposed that without any prior permission, the appellant damaged the entire floor of the rented premises and caused damage to the tune of Rs.19,800/-.

10.The only point for consideration is whether the appellant has got an intention to cause any damage to the building owned by P.W.1.

11.It is relevant to extract the provision under Section 3(1) of the TNPPDL Act, which reads as follows:-

"3. Mischief causing damage to public property.—

(1) Whoever commits mischief by doing any act in respect of any public property, other



than public property of the nature referred to in sub-section (2), shall be punished with imprisonment for a term which may extend to five years and with fine.

12. Admittedly, the appellant is a tenant under P.W.1 and in order to install the wheel alignment instrument, he dug up a small pit. Therefore, the appellant had absolutely no intention to cause any damage to the property owned by P.W.1. Further, the rent was also enhanced to Rs.11,000/- in order to install wheel alignment instrument in the rental premises. Though P.W.1 denied installing the wheel alignment instrument at the shop, it is obvious that the rent was enhanced only for the purpose of installing the wheel alignment instrument. The operator of JCB was examined as P.W.6. He categorically deposed that in order to install wheel alignment instrument, he was engaged by the appellant to dig up a small pit to a depth of 3 feet. Further, P.W.1 also categorically admitted that the appellant is a tenant and her mother also filed a petition for recovery of rent in R.C.O.P.No.308 of 2013 on the file of the learned Principal District Munsif, Madurai. However, it is true that though the appellant engaged P.W.6 to dig up a pit to install wheel alignment instrument, whether he obtained permission or not is not proved by the appellant herein. Now, the appellant also



vacated the premises and P.W.1 is in possession and enjoyment of the petition premises. Even assuming that the property was damaged to some extent, the intention of the appellant is to install wheel alignment instrument. It does not mean that he caused damage to the building owned by P.W.1. Therefore, the prosecution failed to prove the charge under Section 3(1) of the TNPPDL Act and the trial Court mechanically convicted the appellant and the same cannot be sustained as against the appellant.

13. Accordingly, the order passed in S.C.No.227 of 2014, dated 26.04.2016, on the file of the learned I Additional Sessions and District Judge, Madurai, is set aside and the Criminal Appeal is allowed. The appellant/Accused is acquitted. Bail bond if any executed by the appellant/Accused shall stand cancelled and a fine amount if paid is ordered to be refunded to the appellant/Accused forthwith.

22.06.2023

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

- 1.The I Additional Sessions and District Court,
Madurai.
- 2.The Inspector of Police,
Karimedu Police Station,
Madurai District.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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