



Crl.R.C.(MD)No.302 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2023

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.(MD)No.302 of 2018

1. Kasthuri

2. Paulraj

... Petitioners

Vs.

1.State rep by
The Inspector of Police
Thiruppulani Police Station,
Thiruppulani,
Ramanathapuram District.

2. Jeeva

... Respondents

PRAYER : Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records relating to the order passed by the Learned Court of Principal District and Sessions Court, Ramanathapuram in C.A.No. 15/2016 dated 27.03.2018 and set aside the order and consequently confirm the order passed by the Judicial Magistrate No.I, Ramanathapuram in C.C.No.5/2014 dated 15.04.2016 and allow this Revision Petition.



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For Petitioners : Mr.C.Susikumar
For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)
For R2 : Mr.J.John

ORDER

This Criminal Revision Case has been filed to set aside the order passed by the Learned Court of Principal District and Sessions Court, Ramanathapuram in C.A.No. 15/2016 dated 27.03.2018 and consequently confirm the order passed by the Judicial Magistrate No.I, Ramanathapuram in C.C.No.5/2014 dated 15.04.2016.

2.The case of the prosecution is that on 28.08.2012 at about 4.00 pm., when the defacto complainant was working as teacher, the accused came to the School and when the defacto complainant was in the Headmaster's room, both accused entered into room and scolded her in filthy language and also they threatened her with dire consequences and prevented her from taking class to the students. Hence, the complaint.



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3. On receipt of the complaint, the first respondent registered FIR in Cr.No.186 of 2012 for the offence punishable under Sections 294(b), 353, 506(i) IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance by the learned Judicial Magistrate No.I, Ramanathapuram. In order to prove the charges, the prosecution had examined P.W.1 to P.W.9 and marked Ex.P. 1 to Ex.P4. On the side of the accused, no one was examined and no documents were marked. On perusal of oral and documentary evidence, the trial Court found not guilty of in any of charges. Aggrieved over the same, the second respondent herein preferred an appeal and the same was allowed and convicted the first petitioner herein for the offence punishable under Sections 294(b), 353 IPC and convicted the second petitioner for the offence punishable under Sections 294(b), 506(i) IPC. Both the accused were sentenced to pay a fine of Rs.200/- in default to undergo one week simple imprisonment for the offence under Section 294(b) IPC. The first petitioner was sentenced to pay a fine of Rs.1,000/- in default to undergo two weeks simple imprisonment for the offence under Section 353 IPC. The second petitioner was sentenced to pay a



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fine of Rs.500/- in default one week simple imprisonment for the offence under Section 506(i) IPC. Hence, the present revision.

4.The learned counsel appearing for the petitioners would submit that the defacto complainant was examined as P.W.1 and even according to her, initially she lodged complaint before the Thiruppullani Police Station and subsequently, she lodged complaint before the Kenikkarai Police Station. It was completely suppressed by the prosecution. In fact, the Headmaster, who was examined as P.W.5, turned hostile. Other two witnesses were also turned hostile and not supported the case of the prosecution. There were contradiction in the evidence of P.W.1 to P.W.3. Therefore, the prosecution failed to prove its case beyond any doubt. The mahazar witnesses were examined as P.W.7 and P.W.8 and they categorically deposed that they did not signed in the mahazar and even they did not present at the time of preparing mahazar. Further, P.W.2 deposed that there were 10 persons standing in the School. However, the evidence of P.W.1 is completely contradictory to the same.



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5.Per contra, the learned counsel appearing for the second respondent would submit that the petitioners entered into the room while P.W.1 was in Headmaster's room and scolded her in filthy language and also prevented her from taking class to the students. The second accused threatened her with dire consequences. P.W.1 to P.W.3 categorically proved the case of the prosecution and therefore, the appellate Court rightly convicted the petitioner and it does not require any interference by this Court.

6.The learned Government Advocate(Crl.side) appearing for the first respondent would submit that in order to prove the charges, the prosecution examined P.W.1 to P.W.9 and they categorically corroborated with each other. The complaint was marked as Ex.P.1 and FIR was marked as Ex.P.2. The prosecution witnesses cogently deposed and the appellate Court rightly convicted the petitioners and hence, he prayed for dismissal of this revision.

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



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8. There are totally two accused persons in this case. The first petitioner was President of Puthukovil and the second petitioner is her husband. On 28.08.2012, at about 04.00 pm., when P.W.1 was with P.W. 5, who was the Headmaster of the School, the petitioners entered into the room and started scolding her in filthy language. Though the Headmaster was very much available in the scene of occurrence and he was examined as P.W.5, he turned hostile and did not supported the case of the prosecution.

9. It is seen that there are contradiction between the evidence of P.W.1 and P.W.2. P.W.1 deposed that when she was taking class, the first petitioner entered into class room and prevented her from teaching. However, the prosecution did not even examined any students in support of this contention, whereas, she lodged complaint alleging that when she was in the Headmaster's room, the petitioners entered into the room and scolded her in filthy language and also threatened her with dire consequences. If at all the occurrence had happened in the Headmaster's room, the second respondent might not be taken class in the



Headmaster's room. Therefore, offence punishable under Section 353

IPC would not attract and the same is not proved by the prosecution.

10.Insofar as the offence under Section 294(b) IPC is concerned, in order to punish under this Section, it requires two parts to be completed, ie., a person who does any obscene act in any public place or sings, recites or utters any obscene song, ballad or words, in or near any public place. In the case on hand, even according to P.W.1, the occurrence was happened in the Headmaster's room and therefore, the occurrence did not happened in a public place and no obscene was caused by the petitioners to others. Hence, the prosecution failed to prove the charge under Section 294(b) IPC.

11.Insofar as Section 506(i) IPC is concerned, there are contradiction between the evidence of P.W.1 and P.W2. According to P.W.1, after completion of her School time, when she was proceeded to her home, 5 to 6 persons were followed her, however, she managed to escape from them without stopping her car. That apart, she did not lodged any complaint before the jurisdictional police station on the same



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day. Only on 29.08.2012 she lodged complaint before the Sub-Inspector of Police and thereafter, she was directed to lodge complaint before the jurisdictional police station, whereas, P.W.2 deposed that the second accused was running towards P.W.1 with iron rod to attack her. Therefore, this contradiction is fatal to the case of the prosecution and the prosecution failed to prove its case beyond any doubts. Therefore, the entire conviction and sentenced imposed on the petitioners by the appellate Court cannot be sustained and liable to be set aside. Accordingly, the conviction and sentence imposed by the appellate Court for the offence under Sections 294(b), 353, 506(i) IPC is hereby set aside and the judgment passed by the trial Court in C.C.No.5/2014 dated 15.04.2016 is hereby confirmed. If the petitioners paid any fine amount, the same shall be returned.

12.In the result, this criminal revision case is allowed.

29.03.2023

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

- 1.The Principal District and Sessions Court
Ramanathapuram.
- 2.The Judicial Magistrate No.I,
Ramanathapuram.
- 3.The Inspector of Police,
Thiruppulani Police Station,
Thiruppulani,
Ramanathapuram District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.K.ILANTHIRAIYAN,J.

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