



Crl.R.C.(MD)No.313 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2023

CORAM

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

Crl.R.C.(MD)No.313 of 2018

and

Crl.M.P.(MD)Nos.4328 & 4329 of 2018

1.Pandian

2.Neethi

... Petitioners

Vs.

State through  
The Sub Inspector of Police,  
Koomapatty Police Station,  
Virudhunagar District.  
(Crime No.23 of 2010)

... Respondent

**PRAYER :** Criminal Revision Case filed under Section 397 r/w 401 of Code of Criminal Procedure, to call for the records connected with C.A.No.149 of 2011 on the file of the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur dated 13.02.2011 in C.C.No.69 of 2011 on the file of the learned Judicial Magistrate Court No.1, Srivilliputtur dated 30.09.2011 and set aside the conviction and sentence imposed against the petitioner in C.C.No.69 of 2011 by the learned Judicial Magistrate Court No.I, Srivilliputtur, subsequently



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confirmed by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur in C.A.No.149 of 2011 dated 13.02.2011.

For Petitioner : Mr.R.Alagumani  
For Respondent : Mr.K.Sanjai Gandhi,  
Government Advocate (Crl. Side)

### **ORDER**

This Criminal Revision Case has been filed to set aside the judgment in C.A.No.149 of 2011 on the file of the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur dated 13.02.2011 confirming the order passed in C.C.No.69 of 2011 on the file of the learned Judicial Magistrate Court No.1, Srivilliputtur dated 30.09.2011.

2.The case of the prosecution is that on 28.01.2010, at about 08.00 am., when the defacto complainant was going to her land, situated in west side to Poorikulam Kanmai, questioned the petitioners, who were



drove tractor to off the sand, for which the first petitioner abused her in filthy language and assaulted her and pushed her down and the second petitioner also abused her in filthy language and also attacked her and thereby caused simple injuries. On her complaint, the respondent police registered FIR in Cr.No.23 of 2010 for the offence punishable under Sections 452, 294(b), 324, 323, 506(ii) IPC. After completion of investigation, the respondent filed final report and the same has been taken cognizance by the trial Court for the offence punishable under Sections 294(b), 323 IPC and Sections 3 and 4 of TNPWH Act.

3.On the side of the prosecution, they had examined P.W.1 to P.W. 5 and marked Ex.P.1 to Ex.P.5. On the side of the accused, no one was examined and no document was marked. On perusal of oral and documentary evidence, the trial Court found the petitioners guilty for the offence punishable under Sections 294(b), 323 IPC and sentenced the first petitioner to undergo one month simple imprisonment and to pay a fine of Rs.1,000/- in default to undergo further period of two weeks for the offence punishable under Section 294(b) IPC. The petitioners were sentenced to undergo three months simple imprisonment and to pay a



fine of Rs.1,000/- in default to undergo further period of one month simple imprisonment for the offence punishable under Section 323 IPC.

Aggrieved over the same, the petitioners preferred an appeal and the same was also dismissed by confirming the conviction and sentence imposed by the trial Court. Hence, the present revision.

4.The learned counsel appearing for the petitioners would submit that the prosecution had examined the victim as P.W.1. Except victim, other witnesses were hear-say witnesses. Therefore, the prosecution failed to prove its case. There were contradiction between prosecution witnesses and the same was also not considered by both the Courts below. Even according to the defacto complainant, she was attacked by the petitioners by their hand and leg and the injuries sustained by her were declared as simple in nature. Hence, he prayed for acquittal.

5.The learned Government Advocate(Crl.side) appearing for the respondent police would submit that in order to bring the charges to home, the prosecution had examined P.W.1 to P.W.5. The Doctor, who treated the victim, was examined as P.W.4 and he also categorically



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deposed about the injuries sustained by P.W.1 and accident register was marked as Ex.P.3. Therefore, the prosecution proved its case beyond any doubt and both the Courts below rightly convicted the petitioners and it does not warrant any interference by this Court.

6.Heard both sides and perused the materials available in the record.

7.It is seen that the victim was examined as P.W.1 and she deposed that the first petitioner assaulted her on the left cheek by using hands and on her left thigh by using leg. It is also corroborated by P.W.4, who treated her. It is also seen that when P.W.1 questioned the accused persons, the first petitioner scolded her in filthy language and also attacked her by using hands and legs. The evidence of P.W.2 also corroborated with the evidence of P.W.1. Therefore, the prosecution categorically proved its case and both the Courts below rightly convicted the petitioners. Both the petitioners so far incarcerated nearly a month.

8.Considering the above facts and circumstances of the case, this



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Court is inclined to reduce the sentence alone. Accordingly, the conviction imposed by both the Courts below is hereby confirmed.

Insofar as sentence is concerned, the same is reduced from four months to the period which already undergone by the petitioners.

9.In the result, this criminal revision case is partly-allowed.

Consequently, connected miscellaneous petitions are closed.

**18.04.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
gns



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To



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- 1.The Principal District and Sessions Judge,  
Virudhunagar District at Srivilliputtur.
- 2.The Judicial Magistrate Court No.I,  
Srivilliputtur.
- 3.The Sub Inspector of Police,  
Koomapatty Police Station,  
Virudhunagar 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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