



Crl.R.C.(MD)No.723 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 16.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.(MD)No.723 of 2016

- 1.C.Sekar @ Paramasivam
- 2.Moorthy
- 3.Subbaiah Tevar @ Muthu

... Petitioners/Appellant 1, 2 & 4/A1, A2 & A4

vs.

State Rep. by
The Inspector of Police,
Boothapandi Police Station,
Kanyakumari District.
Crime No.627 of 2001.

...Respondent

PRAYER : This Criminal Revision Case has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records and set aside the Judgment made in C.A.No.54 of 2008 dated 07.09.2016 on the file of the Mahila Fast Track Court, Nagercoil confirming the Judgment made in C.C.No.68 of 2003 on the file of the learned Judicial Magistrate, Boodhapandi, Nagercoil, dated 15.02.2008.

For Petitioners : Mr.C.Muthu Saravanan

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. side)



ORDER

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This Criminal Revision Petition is directed against the Judgment passed by the learned Mahila Fast Track Court, Nagercoil in C.A.No.54 of 2008 dated 07.09.2016, confirming the Judgment passed by the learned Judicial Magistrate, Boodhapandi, Nagercoil in C.C.No.68 of 2003, dated 15.02.2008 and thereby convicted the petitioners for the offences punishable under Sections 147, 148, 326 and 324 IPC.

2.The revision petitioners are accused Nos.1, 2 & 4 in C.C.No.68 of 2003 on the file of the learned Judicial Magistrate, Boodhapandi, Nagercoil and in the said Court, the petitioners have been convicted and sentenced as under:

Accused	Section	Sentence
A1, A2 & A4	Section 148 IPC	2 years S.I., and a fine of Rs.1,500/- in default, 6 months S.I.
A1	Section 326 IPC	2 years S.I and a fine of Rs. 3,000/- in default, 6 months S.I.
A2 & A4	Section 324 IPC	1 year S.I., and a fine of Rs. 2,000/- in default, 3 months S.I.

3.The case of the prosecution is that on 14.11.2001, at about 01.45 p.m., when the victim was purchasing banana leaf, there was a wordy



quarrel, due to which, the accused persons attacked him with aruval and iron rod on his left forehead and shoulder. Hence, the complaint.

4.On the basis of the complaint, the respondent police has registered an FIR in Crime No.627 of 2001 for the offences punishable under Sections 147, 148, 324 and 506(2) IPC. After completing the investigation, the respondent police has filed a final report and the same has been taken cognizance by the trial Court in C.C.No.68 of 2003.

5.After conducting trial, the trial Court found guilty the petitioners for the offences under Sections 147, 148, 324 and 326 IPC. Aggrieved by the same, the petitioners have preferred an appeal before the Appellate Court and the Appellate Court confirmed the conviction and modified the sentence as under:

Accused	Section	Sentence
A1, A2 & A4	Section 148 IPC was modified into for the offence under Section 147 IPC	Fine of Rs.1000/-, in default, 1 month S.I.
A1	Section 326 IPC was modified into for the offence under Section 324 IPC	6 months S.I. and a fine of Rs.2,000/- in default, 3 months S.I.
A2 & A4	Section 324 of IPC	6 months S.I. and a fine of Rs.2,000/- in default, 3 months S.I.



A1

Section 147

Fine of Rs.1,000/- in
default, 1 month S.I.

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Challenging the same, the present revision has been filed.

6.The learned counsel for the petitioners would submit that the occurrence had occurred in the year 2001 and for the past two years, he had appeared before the Courts below. The second accused herein is a petty shop owner. While being so, on 14.11.2001, when P.W.1 namely, the injured came to the shop for purchasing cigarette, there was a wordy quarrel between them. Therefore, P.W.1 and four other persons attacked the second accused with stick by hands. Therefore, he sustained injuries and as such, he lodged a complaint and the same was registered in Crime No.626 of 2001 for the offences punishable under Sections 147, 323 and 506(1) IPC. Subsequently, P.W.1 herein, in order to escape from the clutches of law, lodged the present complaint, as if, the petitioners herein attacked him with aruval and iron rod. He would further submit that the respondent police without following the procedures as contemplated under the Police Standing Order 588-A, filed the final report in both the cases. Though the trial Court conducted simultaneous trial in both the cases, convicted the accused persons. He would further submit that already the petitioners were incarcerated for the sufficient period of time



and as such, they prayed to reduce the sentence for the period which was already undergone by them.

7.Per contra, the learned Government Advocate (Crl. side) would submit that all the petitioners are arrayed as A1, A2 and A4 and they were charged for the offences under Sections 147, 148, 324 and 326 IPC and in order to bring the charges to prove, the prosecution has examined 12 witnesses as P.W.1 and P.W.12. The prosecution has also exhibited 11 documents as Ex.P.1 to Ex.P.11 and no material objects were produced before the trial Court. On the side of the petitioners/accused, was examined as D.W.1. They did not mark any exhibits and material objects.

8.On perusal of the oral and documentary evidence, the trial Court found the petitioners guilty for the offences punishable under Sections 147, 148, 324 and 326 IPC and the same was also confirmed by the Appellate Court and reduced the sentence from 2 years to 6 months. Therefore, both the Courts below rightly convicted the petitioners and it does not require any interference by this Court, since both the Courts below upheld and convicted the petitioners.



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

10. The case of the prosecution is that on 14.04.2001, when P.W.1 came to the shop of the second petitioner herein for purchasing banana leaf, there was a wordy quarrel between them, in which, P.W.1 and four other persons had attacked D.W.1, the second petitioner herein by hands and sticks and therefore, sustained injuries. Immediately, he went to the respondent police and lodged a complaint. The same was registered in Crime No.626 of 2001 for the offences punishable under Sections 147, 323 and 506(1) IPC. Whereas, P.W.1 lodged a complaint alleging that the petitioners and three others attacked him with aruval and iron rod on his left forehead and shoulder. Therefore, he sustained grievous injuries and lodged a complaint. The said complaint was registered in Crime No.627 of 2001. The respondent, in both the First Information Reports, had completed investigation and filed the final reports and the same have been taken cognizance by the trial Court in C.C.Nos.58 and 59 of 2002. Both the cases were tried simultaneously and in both the cases, all the accused persons were convicted as stated above.



11.P.W.1 deposed that the first petitioner attacked him by aruval and the second petitioner herein attacked him with iron rod and the third petitioner also attacked with iron rod on his left forehead and shoulder. P.W.2 and P.W.3, who are eyewitnesses, deposed and corroborated the evidence of P.W.1. However, the prosecution did not recover the aruval and the iron rod and no material objects were produced before the trial Court. At the same time, the second accused was examined as D.W.1 in the case in C.C.No.59 of 2002. He deposed that when P.W.1 came to the shop for purchasing Cigarette, there was a wordy quarrel. Since P.W.1 failed to pay the cost of cigarette, when it was questioned by the second accused herein, P.W.1 and four other persons attacked him by sticks and hand. He was also admitted in the hospital. In fact, the second accused herein also was examined as D.W.1 in the present case. Therefore, it is clear that there was an incident on 14.11.2001 and both the parties were attacked by each other. In the said occurrence, the second accused and P.W.1 were alone sustained injuries. The prosecution also proved by examining the Doctor and other witnesses. However, A3, A5 and A6 were acquitted by the Courts below. The Appellate Court also reduced the sentence from 2 years to 6 months. The crime is of the year 2001 and after filing the final report, the trial Court had taken cognizance in the year 2003 and they were found guilty on 15.02.2008. For the past five



years, they have appeared before the Courts below regularly and that apart, before the First Appellate Court, in the appeal for the period of 8 years and till the Judgment dated 07.09.2016 and after filing this revision, they also were directed to appear before the trial Court while suspending the sentence. Therefore, for the past 22 years, they had undergone the ordeal of trial.

12.Considering the above facts and circumstances, this Court finds no ground to acquit the petitioners from the charges. However, this Court feels that the sentence, which was undergone by them may be treated as sentence. Accordingly, the conviction imposed by the Courts below as against the petitioners is hereby confirmed. The period of sentence already undergone by the petitioners is hereby treated as sentence.

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

16.03.2023

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NCC : Yes/No

Index: Yes/No

Internet: Yes/No



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To

1. The Mahila Fast Track Court, Nagercoil.
2. The Judicial Magistrate, Boodhapandi, Nagercoil.
3. The Inspector of Police,
Boothapandi Police Station,
Kanyakumari District.
4. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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