



Crl.R.C(MD)No.592 of 2017

BEFORE THE MADURAI BENGH OF MADRAS HIGH COURT

DATED : 16.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.592 of 2017

Natrayan

... Revision Petitioner/
Appellant/Accused

Vs.

The Inspector of Police,
Palani Taluk Police Station,
Dindigul District.
(In Crime No.591 of 2005)

... Respondent/
Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 and 401 of the Code of Criminal Procedure, to call for the records of the impugned Judgment dated 02.06.2017 passed by the learned Additional District and Sessions Judge, Palani in Criminal Appeal No.26 of 2016, confirming the conviction and sentence passed by the learned Judicial Magistrate, Palani in C.C.No.512 of 2005, dated 09.05.2016.

For Petitioner : Mr.C.Arul Vadivel @ Sekar
Senior Counsel
for Mr.J.Selvam

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



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ORDER

This revision has been filed to set aside the Judgment passed by the learned Additional District and Sessions Judge, Palani in Criminal Appeal No.26 of 2016, dated 02.06.2017, confirming the conviction and sentence passed by the learned Judicial Magistrate, Palani in C.C.No.512 of 2005, dated 09.05.2016.

2.The case of the prosecution is that on the date of occurrence when the injured went to his field, the petitioner/accused was coming from a sugarcane field and attacked him with aruval. When it was prevented by the injured/P.W.1, he sustained an injury on his right hand. Hence, P.W.1 lodged the complaint, and he was admitted as an inpatient for 24 days. On receipt of the said complaint, the respondent registered the F.I.R. In Crime No.591 of 2005 for the offence punishable under Section 326 of I.P.C. After completion of the investigation, the respondent filed a final report and the same has been taken cognizance in C.C.No.512 of 2005, on the file of the learned Judicial Magistrate, Palani.

3.On the side of the prosecution, they had examined P.W.1 to P.W.8 and marked Exs.P.1 to P.5 and on the side of the accused, no one was examined, and no materials were produced.



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4. On perusal of both the oral and documentary evidence, the trial Court found the accused guilty for the offence under Section 326 of I.P.C and sentenced him to undergo one year Rigorous Imprisonment. Aggrieved by the same, the petitioner preferred an appeal in Criminal Appeal No.26 of 2016 on the file of the learned Additional District and Sessions Judge, Palani and the Appellate Court dismissed the appeal confirming the conviction and sentence passed by the trial Court. Hence, the Revision.

5. The learned Senior Counsel appearing for the petitioner would submit that there was a delay in the lodgment of the complaint. The alleged occurrence had taken place on 15.07.2005, whereas, the complaint was lodged on 16.07.2005 with a delay of 28 hours. Though the F.I.R was registered on 16.07.2005, it reached the concerned jurisdictional Magistrate Court only on 18.07.2005 with a delay of two days. There was absolutely no explanation by the respondent for the delay in the lodgment of the complaint and also the delay in sending the F.I.R to the concerned court. In fact, P.W.1 categorically admitted that he signed in the blank paper and had given it to the Head Constable of the respondent police station. It would be filled depending upon the



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injuries sustained by him. Therefore, the entire complaint was concocted by the respondent and falsely implicated the petitioner herein as an accused. The injured immediately went to the hospital, where P.W.7 treated him. P.W.7 issued a wound certificate, and it was recorded as the injured was attacked by unknown persons by Aruval, whereas, he deposed that the petitioner only attacked him by Aruval. The alleged weapon was also not recovered and promptly produced before the court below. In fact, the Doctor who treated the injured never deposed the injuries sustained by P.W.1 by Aruval. Further, the complaint, which was received at the police station, was not examined by the prosecution in order to prove the complaint. In fact, one Gurusamy, who partially investigated the complaint was examined as P.W.8 and the Investigating Officer, who had completed the entire investigation and filed a final report, was not examined by the prosecution. These are all discrepancies fatal to the case of the prosecution, and the prosecution failed to prove beyond any doubt.

6.Per contra, the learned Government Advocate (Criminal Side) would submit that in order to bring the charge under Section 324 of I.P.C, the prosecution had examined P.W.1 to P.W.8 and marked Exs.P.1 to 5. The injured was examined as P.W.1 and his deposition is the best evidence. Though the eyewitnesses were



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examined as P.W.2 to P.W.4, they were turned hostile. Admittedly, P.W.1 sustained grievous injury on his right hand and also a fracture in his fifth finger on his right hand and therefore, he was admitted in hospital for 24 days hence, the Courts below rightly convicted the petitioner and does not warrant any interference.

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

8.The petitioner is the sole accused. According to P.W.1, on 15.07.2005, when he visited his field, the petitioner came out from his sugarcane field and attacked him with Aruval. There were people also working in the field. P.W.1 lodged the complaint on 15.07.2005 and even according to him, he signed in the blank paper and after receipt of the memo, he went to the hospital. Thereafter, only on 16.07.2005 at about 11.45 p.m., F.I.R was registered, whereas, P.W.1 categorically deposed that he had given the signed blank paper to the Head Constable, who was not examined by the prosecution. P.W.1 categorically deposed that he had given white signed paper and it would be filled depending upon the injuries sustained by him. After collecting the memo from the respondent Police, he went to the hospital, wherein P.W.7, who treated P.W.1,



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has issued a wound certificate, which was marked as Ex.P.4. On perusal of Ex.P.4 revealed that P.W.1 stated that he was attacked by some unknown persons by Aruval, whereas, only one accused was implicated in this case. He also deposed that the petitioner alone attacked him with Aruval. This contradiction is fatal to the case of the prosecution and the case of P.W.1 is not believable one. That apart, the weapon used by the petitioner was not recovered by the respondent and was not produced before the trial Court. Though P.W.8 partially investigated the matter, thereafter another investigating officer continued the investigation and filed a final report. Unfortunately, the prosecution failed to examine him before the trial Court. If the person, who received the complaint from P.W.1 was examined by the prosecution, the truth would have come out. However, on perusal of the deposition of P.W.1 is very clear that he had given a complaint on a white paper along with a signature. That apart, there was a property dispute between the petitioner and P.W.1 and when he went to the police station to give a complaint, prior to the occurrence, they stated that if there was any wound, the same would be registered. Immediately after the alleged occurrence, he lodged the complaint against the petitioner and went to the hospital. One Palanivel was examined as P.W.4, who had turned hostile and did not support the case of P.W.1. Except P.W.1,



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no other evidence had supported the case of the prosecution.

Therefore, the conviction based on the evidence of P.W.1 and P.W.7 cannot be sustained. Since the prosecution failed to prove its case beyond any reasonable doubt, the conviction and sentence passed by the trial court as against the petitioner for the offence under Section 326 of I.P.C is liable to be set aside.

9. Accordingly, the Criminal Revision Case is allowed, and the Judgment passed by the learned Additional District and Sessions Judge, Palani in Criminal Appeal No.26 of 2016, dated 02.06.2017, confirming the conviction and sentence passed by the learned Judicial Magistrate, Palani in C.C.No.512 of 2005, dated 09.05.2016, is set aside. The petitioner/accused is acquitted. Bail bond if any executed by the petitioner/accused shall stand cancelled and a fine amount if paid is ordered to be refunded to the appellant/accused forthwith.

16.03.2023

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

- 1.The Additional District and Sessions Court,
Palani.
- 2.The Judicial Magistrate,
Palani.
- 3.The Inspector of Police,
Palani Taluk Police Station,
Dindigul 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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Order made in
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